

PURCHASE CONTRACT

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

THIS CONTRACT, made and entered into this ___ day of _____, 2016, for Purchase of Twelve (12) Light Transit Vehicles for GoDurham-Access between the **City of Durham**, a N.C. municipal corporation ("City") and **Interstate Transportation Sales & Service, Inc.** ("Seller"), whose principal office and place of business is at the following address: 511 Trotter Rd, Hopkins, SC 29061.

If seller is a corporation or limited partnership, Seller is organized under the laws of the State of South Carolina.

IT IS AGREED:

1. Seller, in consideration of the sums to be paid as provided in the attachments and in accordance with section 3 below, agrees to sell and to deliver to the City, at the times, in the quantities and quality, at the prices, and to the places, the goods described in the following attachments that are made a part of this contract:

_____ <input checked="" type="checkbox"/> Advertisement	_____ Instructions to Bidders	_____ General
Conditions		
_____ <input checked="" type="checkbox"/> Bid Proposal Form	_____ <input checked="" type="checkbox"/> LTV Specifications	_____ <input checked="" type="checkbox"/> Copy of
Standard Warranty		
_____ <input checked="" type="checkbox"/> Attachment A	_____ <input checked="" type="checkbox"/> Federal Requirements	

2. This contract is known as Bid No. **16-0037** in the files of the City's Purchasing Division.

3. The sum to be paid by the City under this contract is: **\$685,212.00**

WHEREFORE, City has caused this contract to be executed under authority of its City Council, and Seller (if corporate) has executed this contract under seal by authority of its board of directors; if not corporate, the Seller has executed this contract under seal pursuant to proper authority.

ATTEST:

CITY OF DURHAM

.....
IF SELLER IS NOT A CORPORATION

Notary Public

Type or print name of Seller

(See instruction 3(b) on reverse.) Affix notarial seal. by: _____ (Seal)
My commission expires: _____
Signature

.....
IF SELLER IS A CORPORATION

ATTEST:

Corporate Secretary

Type or print the correct name of corporation

(Affix Corporate seal) by: _____
President or Vice President

1. This contract must be executed in duplicate originals and returned within 30 days to the City's Purchasing Department for execution by the City. One original will be returned to your firm and the other will be filed with the City Clerk.
2. If the Seller is a corporation...
 - (a) An original corporate seal must be affixed.
 - (b) The correct corporate name must be used. If a division of the corporation is involved, the corporation itself should execute the contract.
 - (c) This signature must be that of one of the following: (1) the President, (2) Vice President, or (3) a person authorized by the board of directors to execute contracts in general or this particular contract.
 - (d) If someone other than the President or Vice President signs, then you must attach a copy of the resolution of the board of directors authorizing the other person to sign the contract. That copy must be certified by a corporate secretary, with the corporation's seal impressed on it. A document in the following form will comply with these requirements, although other forms may also be acceptable:

Resolution Authorizing Execution of Contracts

RESOLVED, that [insert name of person authorized to sign] shall have authority to enter into contracts with, and to execute performance bonds for the benefit of, the City of Durham, N.C., in the name of and on behalf of [insert corporation's name] related to City of Durham Bid No. [insert bid number].

I, a Secretary or Assistant Secretary of the corporation whose name is indicated hereinabove, certify that the foregoing is a true copy of a resolution of duly adopted by the Board of Directors of said corporation, and that said resolution is still in effect.

This the _____ day of _____, 20____.

(Affix corporate seal)

Secretary or Assistant Secretary

3. If the Seller is not a corporation...
 - (a) The individual owner or partner must sign.
 - (b) The notary public's signature will be understood to mean that the notary certifies that the person whose signature is to the right of the notary's signature appeared before the notary and acknowledge the execution of the contract.
4. WHEN A PERFORMANCE BOND IS REQUIRED - (a) the principal amount is the full amount of the contract. (b) The form provided by the City must be executed by a corporate surety **authorized to do business in North Carolina**. The N.C. resident agent's name and address and the surety's address must be shown. (c) The Power of Attorney for the surety's Attorney in Fact must be attached to the bond. The surety's corporate secretary must indicate that the Power of Attorney is still in effect. The surety's corporate seal must be actually impressed on the Power of Attorney. (d) The Attorney in Fact's signature must be notarized. Contact the Purchasing Department if you need a notarization form. (e) The seller must execute the bond, using instructions 2 and 3 above as to how to do so.
5. Don't alter the documents without first obtaining authorization from the City's Purchasing Department.
6. Warranties and Indemnification. In addition to other warranties made in this transaction, Seller represents and warrants that all of the products furnished under this contract, the process by which those products are made, and their use will not infringe any patent, trademark, or other rights of any other person, firm, or corporation, and Seller shall defend, indemnify, and hold harmless City and its officers, officials, agents, contractors, and employees from and against any and all claims, judgments, costs, damages, losses, demands, liabilities, obligations, fines, penalties, royalties, settlements, and expenses (including interest and reasonable attorney's fees assessed as part of any such item) arising out of any (i) actual or alleged infringement of any such patent, trademark, or other rights, or (ii) (except to the extent that the personal injury, death, or property damage is caused solely by negligent or intentional acts or omissions of the City) personal injury, death, or property damage allegedly caused by or resulting from the delivery to the City of, or the manufacture, construction, design, formulation, development of standards, preparation, processing, assembly, testing, listing, certifying, warning, instructing, marketing, selling, advertising, packaging, or labeling of any product furnished to the City under this contract. Without reducing City's rights under this section, Seller, in case of an actual or threatened claim, may at Seller's option and expense procure for City the right to continue using the products furnished under this contract. (The preceding sentence does not pertain to part "(ii)" of the first sentence of this section.)
7. The individuals executing this contract warrant that they have authority to execute this contract on behalf of the Seller.
8. This Contract shall be deemed made in Durham County, North Carolina, and shall be governed by and construed in accordance with the law of North Carolina. The exclusive forum and venue for all actions arising out of this Contract shall be the North Carolina General Court of Justice, in Durham County. Such actions shall neither be commenced in nor removed to federal court. This section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this section.

9. Iran Divestment Act Certification. The person entering into this contract with the City of Durham ("Contractor") certifies that, if it submitted a bid for this contract, then as of the date it submitted the successful bid, the Contractor was not on the Final Divestment List. If it did not submit a bid for this contract, the Contractor certifies that as of the date that this contract is entered into, the Contractor is not on the Final Divestment List. The List is issued by the N.C. State Treasurer to comply with G. S 143C-6A-4 of the N.C. Iran Divestment Act. This Iran Divestment Act Certification section applies only if this contract is for goods or services. The Contractor shall not utilize on this contract any subcontractor that is identified on the List.
10. E-Verify Requirements.
- (a) If this contract is awarded pursuant to North Carolina General Statutes (NCGS) 143-129 – (i) the contractor represents and covenants that the contractor and its subcontractors comply with the requirements of Article 2 of Chapter 64 of the NCGS; (ii) the words "contractor," "contractor's subcontractors," and "comply" as used in this subsection (a) shall have the meanings intended by NCGS 143-129(j); and (iii) the City is relying on this subsection (a) in entering into this contract.
- (b) If this contract is subject to NCGS 143-133.3, the contractor and its subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the NCGS.

LIGHT TRANSIT VEHICLE (LTV) SPECIFICATION

1. Capacity

This vehicle shall be capable of carrying in one trip at least eight (8) ambulatory passengers, plus the driver or six (6) ambulatory passengers, two wheelchairs plus the Driver. **Light Transit Vehicle seating arrangements: See attachment "A"**

2. Chassis

The model shall be a current model year production vehicle. Chassis must meet the following minimum specifications:

- Current Ford E-350 cutaway chassis (or approved equal) with 6.8L, gasoline engine;
- 12,500 lb. GVWR; 96" overall width; 115" overall height; 248" length; 158" wheelbase; 5,000 lbs. front axle/ 8,500 lbs. rear axle/ 4:10:1 rear axle ratio
- 5-speed automatic overdrive transmission; transmission oil cooler; radiator coolant recovery kit;
- The vehicle shall be equipped with an OEM tilt steering wheel and OEM power steering; 2 drive shaft guards;
- hydraulic front disc and drum rear brakes;
- Auxiliary Round Red LED Brake Lights - two round 7" brake lights; one on each side of vehicle above OEM brake lights.
- back-up alarm;
- two-way radio provision; all wiring is insulated, color, number, and function coded wiring; pre-wiring for 4-camera surveillance system;
- LED lighting except for OEM chassis lights;
- reverse alarm assistance system;
- HELP type bumpers (or approved equal).

3. Line Protection

All metal, plastic, and rubber fluid lines beneath the vehicle that are altered or exposed as a result of floor modification shall be secure and reasonably protected from road damage. Any fuel and brake line modification/alteration must be of OEM equivalent material or workmanship. Straightening and rebending OEM brake or fuel lines is strictly prohibited.

4. Fuel Tank

Fuel tank shall have an OEM equivalent capacity or 40 (40) gallon minimum capacity with trap door access to fuel tank. Tank, fuel lines, and hardware must meet all current FMVSS, including FMVSS 301, as well as all current CARB and EPA requirements and must be OEM equivalent in connection types, etc. The use of worm clamps is limited to that of the OEM. Tank shall be calibrated with the OEM dash fuel gauge.

5. Suspension

Heavy duty shock absorbers; front coil and rear leaf springs; MOR/Ryde Suspension (or approved equal) installed on rear axle.

6. Wheels

Seven (7) LT225/75R16E all season 10 ply, radial tires with rims; spare tire is mounted behind rear axle of vehicle;

7. **Electrical**

Each vehicle shall have a 12-volt electrical charging system as supplied from the OEM. All electrical wiring shall be automotive stranded copper, of sufficient gauge to handle the load, color-coded to match the OEM. All harnesses that are modified or added to the vehicle will be secured to the frame/body at a maximum of two feet intervals with insulated clamps, or adhesive tape, etc. All exposed terminals and wiring shall be protected from the elements using sealed terminals or heat shrink where necessary. Exposed wires will be wrapped or loomed in corrosion/moisture-resistant material.

8. **Battery**

Vehicle shall have the heaviest-duty available factory installed battery (600 cca, 12-volt maintenance free). Battery cables and connectors shall be OEM 12 volt heavy duty electrical system; dual batteries. Dual batteries should be mounted in the side compartment.

9. **Alternator**

1400 CCA total; 225 amp OEM alternator; InterMotive fast idle;

10. **Front and Rear Heating and Air Conditioning**

OEM front (driver's area) heating and air conditioning; rear heater, 65,000 BTU's and rear a/c, 75,000 BTU's;

11. **Interior Lighting**

Overhead and lower lighting shall be installed in the interior center seat row of the vehicle that provides not less than two foot-candles of illumination at the entrance area. This system shall illuminate automatically when the vehicle front or sliding doors are open. All accessory vehicle lighting shall conform to ADA 49 CFR, Part 38, Subpart B.

12. **Body**

Champion Challenger must have exterior reinforced fiberglass plastic panels with a full steel roll cage.

13. **Interior Height**

Interior height should be no less than 78 inches.

14. **Body Length**

Body length should be 20 feet.

15. **Paint**

The vehicle color shall be silver, paint code LO27EBH.

16. **Sealant, Rustproofing, and Undercoating**

All exposed floor seams shall be sealed with a industrial grade butyl sealant or equivalent which conforms to ASTM C920. The entire surface of exterior lowered floor shall have a rust inhibiting coating, such as an epoxy primer base, applied to cover all welded areas, and then a fresh application of undercoating over the entire surface. Undercoating shall comply with current Federal and State flammability standards.

17. **Windows**

Passenger transit type windows with dark tinted glass; 2 emergency windows; rustproofing; Transpec 1975 roof ventilator/emergency exit (or approved equal).

18. **Mirrors**

Heated remote right & left side mirrors – Rosco, 15"x 8" exterior mirrors with convex;

19. **Passenger Doors and Step Wells**

Electric automatic, full view two-panel, passenger entry door; emergency full vision rear exit door. LTV door frame, 11 ga. stainless steel LTV step well, 11 ga. powder coated stainless steel.

20. **Rear Door Emergency Exit**

Rear emergency exit should be no less than 36 inches x 56 inches.

21. **Interior Panels**

All interior panels shall be OEM or OEM equivalent. Panel fastening devices shall match the color of the panels. The interior shall provide a pleasant atmosphere, be aesthetically pleasing, and contain smooth finishes without any unprotected sharp edges. The basic vehicle interior shall be gray. All interior panels shall meet FMVSS 302.

22. **Flooring**

The interior subfloor shall be 3/4" marine grade plywood to provide a smooth surface for flooring attachment and to minimize noise. Flooring cover should be blue Altro anti-skid transit flooring (or approved equal), color-keyed covering with white center aisle and yellow nosing on entry steps.

23. **Seats and Grab Handles**

Freedman Featherweight, Mid-back passenger seating with Freedman USR 60" passenger restraint belts; 2-24" seat belt extenders; Seating shall be vinyl, Freedman, (600) Clipper Blue (or approved equal); non-slip coated stanchions and grab bars;

24. **Operator's Seat and Driving Area**

Recaro Ergo LXS adjustable driver's seat (or approved equal); OEM high-back with power pedestal and 3 pt. restraint; A driver's side step w/grab bar and locked storage area above driver must be included. Appropriate instruments, gauges, and controls and inside hood release.

25. **Passenger Restraint**

Restraints shall be furnished for all passengers, consisting of shoulder seat belts and/or lap belts. Each belt shall be equipped with an automatic retractor. Securement devices shall meet all State and Federal Standards.\

26. **Mobility Devise Securement**

The vehicle shall be equipped with a securement device located behind the rear most seats for the purpose of securing (2) two mobility devises. This securement shall be capable of securing devises from a standard wheelchair in a folded position to all types of manual walking assistance devises in a safe manner. The securing devise shall limit the devise from moving more than 2 inches in any direction when properly secured.

27. **Wheelchair Lifts**

Wheelchair lift (meets all requirements of the American with Disabilities Act and the FMVSS): **Braun Century NCL954IB3454-2** (or approved equal), fully automatic side mounted wheelchair lift; lift platform is 34"x 54"; minimum

of 2 wheelchair stations; Sur-Lok 4-point wheelchair tie-down and 3-point passenger restraint systems; six Quick straps; and backup manual over-ride system.

28. **Mounting Brackets**

Oxygen tank brackets; 5 lb. fire extinguisher; 24-unit first-aid kit; web cutter; and warning reflectors brackets shall be provided and installed in the appropriate areas of the vehicle.

29. **Strobe Lights**

Roof top mounted strobe light; Auxiliary Amber Strobe light; located either above rear door or to the right of door. Light shall be wired to illuminate when vehicle is stopped and front door is opened.

30. **Altoona Testing Report**

The converted minivan must have been submitted to the Altoona Bus Test Center for a 4 year/100,000 mile Surface Transportation and Uniform Relocation Assistance Act (STURAA) test. Testing must have been completed on current body style being converted. A copy of the test report shall be provided to The City of Durham with the offer.

32. **Service Manuals**

Two complete set of OEM service manuals will be supplied for each vehicle order. The manuals minimally shall include drivability diagnosis and repair, electrical diagrams, and subassembly maintained and repairs.

33. **Vehicle Production Inspection**

The City of Durham will be represented at the Contractor's plant by a resident inspector(s) in accordance with 49 CFR Section 663. Inspectors will monitor, in the Contractor's plant, the manufacture of vehicles built under this procurement. The resident inspector(s) will be authorized to approve the pre-delivery acceptance tests, and to release the vehicles for delivery. Upon request to the quality assurance supervisor, the resident inspector will have access to the Contractor's quality assurance files related to this procurement. These files will include drawings, material standards, parts lists, inspection processing and reports, and records of defects. The Contractor will provide office space for the resident inspector(s) in close proximity to the final assembly area. This office space will be equipped with desks, outside and interplant telephones and internet access. A confirmed production schedule shall be provided to The City of Durham 30 days prior to the start of vehicle assembly.

34. **Security Cameras**

The vendor will have the vehicles prewired for SEON camera systems. Two interior and exterior cameras will be installed at the front and rear of the vehicle as well as an interior microphone. (Seon Wireless 4 Cameras/DVR system - Seon Trooper TL4)

35. **Radios**

The vendor will have the vehicles prewired for a two-way radio.

36. **Back-up Alarms**

Each vehicle should be equipped with an alarm that beeps each time the vehicle is put into reverse. Rosco -5TSK5465 (or approved equal) , Backup Camera System w/ 5" color monitor, LCD & night vision is preferred.

37. **Back-up Camera**

Each vehicle should be equipped with a back-up camera visible on the dashboard each time the vehicle is put into reverse.

38. **Delivery**

Unless otherwise noted on the PO, unit(s) shall be delivered to the GoDurham Access Maintenance & Operations Facility, located at 1824 N Miami Boulevard, Durham, North Carolina 27704 within 125 days of receipt of a signed purchase order.

39. **Warranty**

Chassis - 3 years/36,000 mile Bumper to Bumper Warranty
Power Train - 5 years/60,000 miles
Chassis Corrosion warranty - 5 years/ unlimited miles
Body Conversion warranty - 3 years/36,000 miles
Body Structure warranty - 5 years/75,000 miles
Air Conditioning (add on unit) - 24 months
Wheelchair lift - 5 years Limited Warranty

Extended Warranty options must be stated.

40. **Other**

One (1) copy of operators manual per vehicle _____

Two (2) keys per vehicle _____

One (1) Certificate of Origin (per vehicle) _____

Window sticker to be provided _____

41. **Inspection & Acceptance**

An inspection of the unit(s) will be held by Fleet Maintenance personnel and the ultimate consignee.

Upon delivery and prior to acceptance the successful bidder must provide any necessary technical training in operation and maintenance.

This unit must meet & pass NC OBD2 standards and NC State Inspection Compliance should be completed before delivery to the City of Durham.

The factory warranty shall apply to the vehicle starting with the date the City of Durham places the vehicle into service (by the City of Durham's records) not the date of delivery.

CITY OF DURHAM INSURANCE REQUIREMENTS:

The Bidder shall purchase and maintain insurance coverage for not less than the following:

Commercial General Liability, covering:

- Premises/operations
 - Products/completed operations (two years minimum, from project completion)
 - Broad form property damage
 - Contractual liability
 - Independent contractors, if any are used in the performance of this contract
 - City of Durham must be named additional insured, and an original of the endorsement to effect the coverage must be attached to the certificate (if by blanket endorsement, then agent may so indicate in the GL section of the certificate, in lieu of an original endorsement)
- Combined single limit not less than \$1,000,000 per occurrence, with an annual aggregate of not less than \$2,000,000

Commercial Auto Liability, covering:

- Symbol 1, all vehicles
 - Combined single limit of \$1,000,000
- City of Durham must be named additional insured, and an original of the endorsement to effect the coverage must be attached to the certificate (if by blanket endorsement, then agent may so indicate in the AL section of the certificate, in lieu of an original endorsement)

Workers' Compensation Insurance, covering:

- Statutory benefits
Covering employees; covering owners partners, officers, and relatives (who work on this contract) (this must be stated on the certificate)
- Employer's liability, \$1,000,000
- Waiver of subrogation in favor of the City of Durham

Insurance shall be provided by:

- Companies authorized to do business in the State of North Carolina
- Companies with Best rating of A-, VII or better

Insurance shall be evidenced by a certificate:

Providing notice to the City of not less than 30 days prior to cancellation or reduction of coverage

- Certificates shall be addressed to:
City of Durham, North Carolina
Attention: Purchasing Department
101 City Hall Plaza
Durham, NC 27701
- The insurance certificate and the additional insured endorsement must be the originals

Federal Requirements

The following provisions are required either (i) by a grant agreement or cooperative assistance agreement between the USDOT and City of Durham or (ii) by a grant agreement or cooperative assistance agreement between the North Carolina Department of Transportation (hereinafter called the "NCDOT") and City of Durham or (iii) by City of Durham itself. As to such provisions, if there is variance between the language set forth herein and any such actual grant or cooperative assistance agreement, the provisions of the grant or cooperative assistance agreement shall govern.

To the extent applicable, the federal requirements contained in the FTA Master Agreement dated October 1, 2014, as amended (hereinafter called the "Master Agreement"), including any certifications and contractual provisions required by any federal statutes or regulations referenced therein to be included in this RFP document and the Contract, will be deemed incorporated into the RFP document and Contract by reference and shall be incorporated in any subagreement or subcontract executed by the successful Contractor pursuant to its obligations under the Contract. Contractor and its subcontractors, if any, will represent and covenant that they have complied and shall comply in the future with the applicable provisions of the Master Agreement then in effect and with all applicable federal, state and local laws, regulations and rules and local policies and procedures, as amended from time to time, relating to the equipment or the services provided under the Contract, which may in any manner affect the performance of the Contract, including, without limitation, the following:

No Government Obligation to Third Parties

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

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

Program Fraud and False or Fraudulent Statements or Related Acts

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil

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

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

(3) The Contractor agrees to include the above two clauses in each subcontract financed in

whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Access to Records and Reports

(1) Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR

633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.

(2) Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

(3) Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any book documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

(4) Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

(5) Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(6) Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR18.39(i)(11).

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

Federal Changes

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

Civil Rights Requirements

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 USC 2000d, Sec. 303 of the Age Discrimination Act (1975), as amended, 42 USC 6102, Sec. 202 of the Americans with Disabilities Act (1990), 42 USC 12132, and 49 USC 5332, contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age or disability. Contractor shall also comply with applicable Federal implementing regulations and other requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 USC 2000e, and 49 USC 5332, contractor shall comply with all applicable equal employment opportunity requirements of USDOL, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, USDOL," 41 CFR 60 et seq., (implementing Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC 2000e), and any applicable Federal statutes, executive orders, regulations, and policies that may in the future affect construction activities undertaken in the course of the project. Contractor shall 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, contractor shall comply with any implementing requirements FTA may issue.

(b) Age - In accordance with Sec. 4 of the Age Discrimination in Employment Act (1967), as amended, 29 USC 623 and 49 USC 5332, contractor shall refrain from discrimination against present and prospective employees for reason of age. Contractor shall also comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with Sec. 102 of the Americans with Disabilities Act (ADA), as amended, 42 USC 12112, contractor shall comply with the requirements of US Equal Employment Opportunity Commission (EEOC), Regulations to Implement Equal Employment Provisions of the Americans with Disabilities Act, 29 CFR 1630, pertaining to employment of persons with disabilities. Contractor shall also comply with any implementing requirements FTA may issue.

(3) Contractor shall include these requirements in each subcontract financed in whole or in part with FTA assistance, modified only if necessary to identify the affected parties.

Incorporation of Federal Transit Administration (FTA) Terms

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

Energy Conservation

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

Disadvantaged Business Enterprise

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.

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

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

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

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

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

Davis-Bacon and Copeland Anti-Kickback Acts

(1) **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally

and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

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

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

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

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

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

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

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

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

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

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

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

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

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

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

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

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

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

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

(2) **Withholding** – City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, City may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

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

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the City for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal

Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

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

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

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

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

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

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

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

(4) **Apprentices and trainees** - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid

the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) **Compliance with Copeland Act requirements** - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

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

(7) **Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) **Certification of eligibility** - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

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

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

Americans with Disabilities Act (ADA)

Americans with Disabilities Act (ADA). The Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC § 12101 et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; 49 USC § 5301(d); and any implementing requirements FTA may issue. These regulations provide that no handicapped individual, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity included in or resulting from this Agreement.

Geographic Restrictions and Prohibition Against Exclusionary or Discriminatory Specifications

a. CONTRACTOR agrees to refrain from using state or local geographic preferences, except those expressly mandated or encouraged by federal statute, and as permitted by FTA.

b. To the extent applicable, CONTRACTOR shall comply with the requirements of 49 U.S.C. § 5323(h)(2) by refraining from using any funds derived from the Contract in performance of the Services to support procurement using exclusionary or discriminatory specifications.

Termination

a. For Convenience - **City**, by a 30 day written notice, may terminate this Contract, in whole or in part, when it is in the City's interest. If this Contract is terminated, City shall be liable only for payment under the payment provisions of this Contract for services rendered before the effective date of termination.

b. Termination for Default - If the CONTRACTOR fails to deliver or perform the services within the time specified in this Contract or any extension or if the CONTRACTOR fails to comply with any other provisions of this Contract, City may terminate this Contract for default. City shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature of the default. The CONTRACTOR will only be paid the Contract price for services performed in accordance with the manner or performance set forth in this Contract.

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

c. Opportunity to Cure - City in its sole discretion may, in the case of a termination for breach or default, allow the CONTRACTOR five calendar days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If CONTRACTOR fails to remedy to City's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within five calendar days after receipt by CONTRACTOR of written notice from City setting forth the nature of said breach or default, City shall have the right to terminate the Contract without any further obligation to CONTRACTOR. Any such termination for default shall not in any way operate to preclude City from also pursuing all available remedies against CONTRACTOR and its sureties for said breach or default.

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

Debarment and Suspension

The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. Part 180. The CONTRACTOR agrees to, and assures that its subcontractors, lessees, third party contractors, and other participants at any tier of the Project will, review the "Excluded Parties Listing System" at <http://www.sam.gov/portal/public/SAM/> before entering into any subagreement, lease, third party contract, or other arrangement in connection with the Project.

Certification

Contractor _____

Signature of Authorized Official _____ Date ___ / ___ / ___

Nam and Title of Contractor's Authorized Official _____