

**CLAY COUNTY AGREEMENT/CONTRACT NO.: 2020/2021- \_\_\_\_**

**AGREEMENT BETWEEN CLAY COUNTY  
AND JACKSONVILLE TRANSPORTATION AUTHORITY**

This Agreement made and entered into this \_\_\_\_ day of September, 2021, between Clay County, a political subdivision of the State of Florida (“Clay County”) and Jacksonville Transportation Authority, a body politic and corporate created pursuant to Part II, Chapter 349, Florida Statutes (“JTA”).

**RECITALS**

**WHEREAS**, the State of Florida has established the Florida Commission for the Transportation Disadvantaged to contract with transportation coordinators in each county/service area for the coordination of transportation services for older adults, persons with disabilities, persons of low income and children at risk; and

**WHEREAS**, JTA has been given the responsibility of administering, implementing, and providing the Transportation Disadvantaged Program in Clay County, as well as other transportation services within Clay County, including but not limited to paratransit and other public transportation lines; and

**WHEREAS**, JTA, in administering the Transportation Disadvantaged Program and other transportation services, receives part of its funding for such purpose from the Federal and State Governments and part from local sources within Clay County; and

**WHEREAS**, JTA currently provides transportation services in Clay County that includes locations for stops and pick-ups along the Red Line, Blue Line, and Magenta Line along with the Green Line also known as the VA Flex Route that began in April 2021 which includes locations for stops and pick-ups between the Keystone Heights stop and the Veterans (VA) Clinic, located at 400 College Drive, Middleburg, Florida; and

**WHEREAS**, the transportation services to residents of Clay County provided by JTA are properly a public purpose and concern of Clay County.

**WITNESSETH**

**NOW THEREFORE**, in consideration of the foregoing Recitals, the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged and all objections to the sufficiency and adequacy of which are hereby waived, Clay County and JTA do mutually agree as follows:

**A. Term and Payment.**

1. This Agreement will commence on October 1, 2021 and continue through September 30, 2022, unless earlier terminated. Either party may terminate this Agreement, with or without cause, with seven (7) days written notice.

2. Clay County, in consideration of JTA's activities in providing essential services to the disadvantaged of Clay County, and in order to replace lost State Transportation Disadvantaged Program funding, agrees to pay to JTA on a cash reimbursement basis for services rendered in connection with the Transportation Disadvantaged Program, an amount not to exceed \$351,059.00 from October 1, 2021 through September 30, 2022.
3. Clay County, in consideration of the FTA 5311 Rural Public Transit Operating Grant for funding the Magenta Line public transportation route serving residents in the southern part of the County having been applied for by the JTA on behalf of and at the request of Clay County, agrees to pay the local matching funds requirement of this grant in an amount not to exceed \$223,559.00 from October 1, 2021 through September 30, 2022.
4. Clay County, in consideration of a fifty percent (50%) share of the Florida Department of Transportation Service Development Grant totaling \$584,000.00 for a three-year period for the Green Line/VA Flex Route, will provide \$292,000.00 over the three year grant period. The fiscal year 2022 match is calculated at approximately \$97,500.00. This amount represents one-third (1/3) of the total three-year grant award. In the event the parties fail to enter into an agreement for years two and three of the grant period, the remaining years of the grant will be forfeited.
5. JTA shall make a written request to Clay County on a monthly basis for payment of a designated amount identifying the services performed, on request forms approved and acceptable to both parties hereto. JTA shall supply the appropriate backup documentation to support the payment request, including copies of actual invoices paid by JTA.
6. JTA's requests for payment shall be presented to the Clay County Board of County Commissioners for approval of payment. All payments will be made in accordance with the provisions of the Local Government Prompt Payment Act.
7. JTA will also receive from Clay County the in-kind services listed in Section C below.
8. JTA acknowledges that in the budget for each fiscal year of Clay County during which the term of this Agreement is in effect a limited amount of funds are appropriated which are available to make payments arising under the Agreement. Pursuant to the provisions of Section 129.07, Florida Statutes, the maximum payment that Clay County is obligated to make under this Agreement from the budget of any fiscal year shall not exceed the appropriation for said fiscal year.

B. Conditions.

1. JTA shall use the funds granted by Clay County to administer, implement and provide the Transportation Disadvantaged Program for Clay County and other transportation services including paratransit and other public transportation lines.

2. JTA shall furnish Clay County with a certified copy of its fiscal audits, ending December 31, 2021, upon request.
3. JTA shall maintain an authentic copy of the monthly fiscal and quarterly programmatic reports rendered by JTA as part of its responsibility as recipient of the above funds. These copies will be made available to Clay County upon request.

C. Services.

1. The County will provide to JTA motor vehicle maintenance services through the Clay County Department of Public Works (“Public Works”) for preventive maintenance at the actual cost plus overhead on a reimbursement basis, to be reimbursed monthly by JTA upon receipt of an invoice setting forth the maintenance services provided. If an invoice remains unpaid for more than sixty (60) days, such maintenance services will be suspended by Clay County until all JTA maintenance invoices are brought current. For any repairs requested that are \$1,000.00 or more in cost, JTA will be provided a cost estimate by Public Works and required to provide written approval of such estimate before work may be commenced. Clay County will also provide to JTA in-kind maintenance services not to exceed \$83,920.00.
2. Clay County will provide fuel for transportation vehicles on a reimbursement basis at the actual cost of the fuel, to be reimbursed monthly to Clay County by JTA upon receipt of an invoice setting forth the fuel utilized by JTA. If an invoice remains unpaid for more than sixty (60) days, such fuel service will be suspended by Clay County until all JTA fuel invoices are brought current.
3. Clay County will provide use of the public safety communication tower for JTA to operate radios mounted in transportation vehicles with an in-kind value of \$1,200.00.

D. This Agreement may be modified or amended by the parties upon mutual written agreement of Clay County and JTA.

E. FTA’s Required Clauses for FTA Assisted Contracts are attached hereto as **Exhibit A** and made a part hereof.

F. Clay County and JTA are both entities subject to the obligation under Art. 1, Section 24, Florida Constitution, and Chapter 119, Florida Statutes, as from time to time amended (together, the Public Records Laws), to release records to members of the public upon request and shall comply with the requirements of the Public Records Laws and specifically with Section 119.0701, Florida Statutes. The parties shall retain all records relating to this Agreement for a period of at least five (5) years after the Agreement ends or terminates, whichever occurs first. All records shall be kept in such a way as will permit their inspection pursuant to Chapter 119, Florida Statutes.

G. In that Clay County is a governmental agency exempt from sales and use taxes, Clay County shall pay no such taxes, any other provisions of this Agreement to the contrary notwithstanding. Clay County shall provide proof of its exempt status upon reasonable request.

H. JTA is an independent contractor to Clay County in provision of the services under this

Agreement and is not an employee, agent, joint-venture, or partner of Clay County.

I. The parties will attempt to settle any dispute arising from this Agreement through negotiation and a spirit of mutual cooperation. The dispute will be escalated to appropriate higher-level managers of the parties, if necessary. Each party shall have the right to seek the judicial enforcement and interpretation of this Agreement.

J. In the event either party shall retain an attorney to litigate on its behalf against the other party regarding the enforcement or interpretation of this Agreement or regarding the rights, remedies, or obligations of the parties arising under this Agreement, the party prevailing on the majority of its claims, or which successfully defends against a majority of the other party's claims, shall be entitled to an award of reasonable attorney's fees, costs, and expenses against the other party, including fees, costs, and expenses incurred from the date of referral of the dispute to the prevailing party's attorney through the conclusion of litigation, or incurred in bankruptcy or on appeal. Nothing contained herein is intended to serve as a waiver of sovereign immunity and extend Clay County's and JTA's liability beyond the limits established in Section 768.28, Florida Statutes.

K. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any litigation, mediation, or other action proceeding between the parties arising out of this Agreement lies in Clay County, Florida.

L. Each of the parties shall cooperate with one another, shall do and perform such actions and things, and shall execute and deliver such agreements, documents and instruments, as may be reasonable and necessary to effectuate the purposes and intents of this Agreement.

M. The parties to this Agreement agree to utilize electronic signatures and that the digital signatures of the parties set forth below are intended to authenticate this Agreement and have the same force and effect as manual written signatures. Each person signing on behalf of the parties to the Agreement represents and warrants that he/she has full authority to execute this Agreement on behalf of such party and that the Agreement will constitute a legal and binding obligation of such party.

[The remainder of this page is intentionally blank.]

**IN WITNESS WHEREOF**, the parties hereto have duly executed this Agreement effective as of the first date and year set forth above.

**JACKSONVILLE TRANSPORTATION  
AUTHORITY**

By: \_\_\_\_\_  
Nathaniel P. Ford, Sr.  
Chief Executive Officer

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Cleveland Ferguson, III  
SVP/Chief Administrative Officer

**CLAY COUNTY, a political subdivision of the  
State of Florida**

By: \_\_\_\_\_  
Mike Cella  
Its Chairman

ATTEST:

\_\_\_\_\_  
Tara S. Green  
Clay County Clerk of Court and Comptroller  
Ex Officio Clerk to the Board

**Exhibit A, Required Clauses for FTA Assisted Contracts**  
(On following pages)

## REQUIRED CLAUSES FOR FTA-ASSISTED CONTRACTS

The following terms apply, as applicable, when the Authority determines that the Contract involves or may involve the expenditure of federal funds. Unless otherwise set forth below, the Supplier must include every clause of this Section VI in all subcontracts under this Contract.

### I. REQUIRED CLAUSES FOR ALL FTA-ASSISTED CONTRACTS

1. **Incorporation of Federal Transit Administration (FTA) Terms** - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.
2. **Non-Discrimination.** The Contractor shall comply with the applicable requirements of Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d et seq., section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., 29 U.S.C. § 794, 49 CFR Part 21, and federal transit law at 49 U.S.C. § 5332. The Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, age, disability, or family status. Discrimination includes exclusion from participation, denial of program benefits and discrimination in employment or business opportunity. In addition, the Contractor agrees to comply with all applicable federal and state regulations, including those of any agency of the United States Department of Transportation (U.S. DOT) and the Florida Department of Transportation (FDOT), including FTA Advisory Circular 4702.1.
3. **Equal Employment Opportunity.**
  - a. Race, Creed, Color, Sex, Sexual Orientation, Gender Identity, National Origin, Religion, or Family Status – The Contractor shall comply with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and federal transit laws at 49 U.S.C. § 5332, 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 as supplemented by 41 CFR 60), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect activities undertaken in the course of the Contract. 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, creed, color, sex, sexual orientation, gender identity, national origin, religion, or family status. 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 FTA or FHWA may issue.

- b. Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621-634, 29 CFR Part 1625, 45 CFR Part 90, 42 U.S.C. §§6101 et seq. and federal transit law including 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination for reason of age. In addition, the Contractor agrees to comply with any implementing requirements the Department of Health and Human Services, the EEOC, FTA or FHWA may issue.
  - c. Disabilities - The Contractor agrees that it will comply with the requirements of Titles I, II, III, IV and V of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 et seq., and the 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 29 U.S.C. § 794, 42 U.S.C. §4151, federal transit law including 49 U.S.C. § 5332, and any implementing requirements FTA or FHWA may issue.
4. **Compliance with Nondiscrimination Regulations.** The Contractor and all subcontractors shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the U.S. DOT, Title 49, Code of Federal Regulations, Part 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 the Contract. In addition, the Contractor agrees to comply with federal transit law at 49 U.S.C. Section 5332, which prohibits discrimination on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, age, disability, or family status and prohibits discrimination in employment or business opportunity.
5. **Nondiscrimination.** The Contractor and all subcontractors, with regard to the work performed during the Contract, will not discriminate on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, age, disability, or family status in the selection and retention of subcontractors, including procurements of material and leases of equipment. The Contractor and all subcontractors will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
6. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations made by the Contractor and all subcontractors, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials and leases of equipment, each potential



subcontractor or supplier shall be notified in writing by the Contractor of the Contractor's obligations under this Contract and the Regulations relative to nondiscrimination on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, age, disability, or family status and that these same obligations extend to any subcontractor, supplier or lessor.

7. **Information and Reports.** The Contractor will provide all information and reports required by the Regulations, or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Authority, the FDOT, the U.S. DOT or any other governmental agency designated by the Authority to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the Authority, FDOT, U.S. DOT or any other governmental agency designated by the Authority, and shall set forth what efforts it has made to obtain the information.
8. **Sanctions for Noncompliance.** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the Authority shall impose such contract sanctions as it, the FDOT or the U.S. DOT may determine to be appropriate, including, but not limited to
  - a. withholding of payments to the Contractor under the Contract until the Contractor complies and/or
  - b. cancellation, termination or suspension of the Contract, in whole or in part.
9. **Incorporation of Provisions.** The Contractor shall include the provisions of Paragraphs 1 through 8, in every subcontract, including procurements of materials and leases of equipment unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the Authority, the FDOT or the U.S. DOT may direct as a means of enforcing such provisions, including sanctions for noncompliance. 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 Authority and the FDOT to enter into such litigation to protect the interests of the Authority and the FDOT, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
10. **Participation by Disadvantage Business Enterprises.** The Contractor shall abide by the following statement from 49 CFR 26.13(b). This statement shall be included in all subsequent agreements between the Contractor and any subcontractor or contractor. The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, age, disability, or family status in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in termination of this Contract or other such remedy as the Authority deems appropriate.

11. **Debarment, Suspension, Ineligibility and Voluntary Exclusion.** If the Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction that the Contractor provided as part of its Bid was erroneous when submitted or has become erroneous by reason of changed circumstances, the Contractor shall provide immediate written notice to the Authority.
12. **Sensitive Security Information.** The Contractor shall protect, and take measures to ensure that its subcontractors at each tier protect, “sensitive security information” made available during the administration of a third party contract or subcontract to ensure compliance with 49 U.S.C. Section 40119(b) and implementing DOT regulations, “Protection of Sensitive Security Information,” 49 CFR Part 15, and with 49 U.S.C. Section 114(r) and implementing Department of Homeland Security regulations, “Protection of Sensitive Security Information,” 49 CFR Part 1520.
13. **Changes to Federal Requirements.** The Contractor shall at all times comply with all applicable US DOT, FHWA and FTA regulations, policies, procedures, directives and federal guidance, including without limitation those listed directly or by reference in the Master Agreement (Form FTA MA (19) dated October 2012) between the Authority and FTA, as they may be amended or promulgated from time to time during the term of a Contract resulting from this Solicitation. The Contractor shall not perform any act, fail to perform any act or refuse to comply with any request of the Authority which would cause the Authority to be in violation of any of the FTA or FHWA terms and conditions. The Contractor’s failure to so comply shall constitute a material breach of this Contract.
14. **Incorporation of Federal Transit Administration and Federal Highway Administration Terms.** All contractual provisions required by the US DOT, as set forth in FTA Circular 4220.1F, revised March 18, 2013, whether or not set forth in this Contract are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA and FHWA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Authority request which would cause the Authority to be in violation of FTA and FHWA terms and conditions.
15. **Fly America.** The Contractor agrees to comply with 49 U.S.C. 40118 (the “Fly America” Act) in accordance with the General Services Administration’s regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements.

16. **No Federal Government Obligation to Third Parties.** Notwithstanding any concurrence by the federal government in or approval of the solicitation or award of the Contract, absent the express written consent by the federal government, the federal government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Authority, Contractor, or any other party (whether or not a party to the Contract) pertaining to any matter resulting from this Contract.
17. **False or Fraudulent Statements or Claims and Related Acts – Civil and Criminal Fraud.** The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq. and U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 C.F.R. Part 31, apply to this Contract. Upon execution of the Contract, the Contractor certifies or affirms the truthfulness and accuracy of any claim, statement, submission, certification, assurance or representation it has made, it makes, it may make, or causes to be made, pertaining to the underlying Contract or the FTA or FHWA 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 presents, submits, makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, certification, assurance or representation, the federal government may impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the federal government deems appropriate. The Contractor also acknowledges that if it presents, submits, makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, certification, assurance or representation in connection with this Contract, under the authority of 49 U.S.C. § 5307 and 49 U.S.C. §5323, the federal government may impose the penalties on the Contractor authorized by 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1), to the extent the federal government deems appropriate.

It is further understood and agreed that the willful falsification, distortion or misrepresentation with respect to any facts related to the project(s) described in this Contract is a violation of the federal law. Accordingly, United States Code, Title 18, Section 1020, is hereby incorporated by reference and made a part of this Contract.

18. **Environmental Protection.** The Contractor shall comply with all applicable requirements of Section 29 of the FTA Master Agreement (2012), including the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 et seq. (as limited by 42 USC §5159), Executive Order No. 11514 Executive Order No. 11514, as amended, “Protection and Enhancement of Environmental Quality,” 42 U.S.C. § 4321 note; FTA statutory requirements on environmental matters at 49 U.S.C. § 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 40 C.F.R. Parts 1500 et seq.; and joint FHWA/FTA regulations, “Environmental Impact and Related Procedures,” 23 C.F.R. Part 771 and 49 C.F.R. Part 622. Contractor shall also comply with federal transit laws, including 49 U.S.C. §5323(c)(2) as amended by MAP-21. In addition, the Contractor agrees to comply with any implementing requirements FTA or FHWA may issue.
19. **Buy America.** The Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, where applicable, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the

United States, unless a waiver has been granted by the FTA, or the product is subject to a general waiver. Work orders and small purchases of less than one hundred and fifty thousand dollars (\$150,000.00) made with capital, operating, or planning funds are waived from Buy America requirements.

The JTA requires each Contractor to submit a completed Buy America certificate with its Bid or Bid in accordance with §§ 661.6 or 661.12, as appropriate. The JTA presumes that any Contractor who submitted such certificate is complying with the Buy America provisions. A false certification is a criminal act in violation of 18 U.S.C. § 1001. A Contractor who certifies that it will comply with the applicable Buy America requirement is bound by its original certification (in the case of a sealed bidding procurement) or the certification it submitted with its final offer (in the case of a negotiated procurement) and is not permitted to change its certification after bid opening or submission of its final offer. Where a Contractor certifies that it will comply with Buy America requirements, the Contractor is not eligible for a waiver of those requirements. The JTA reserves the right to request additional information, and/or to conduct both pre-award and post-award audits to ensure that the Contractor is in compliance with Buy America requirements.

20. **Seismic Safety.** The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The Contractor also agrees to ensure that all work performed under this Contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the Project.
21. **Conformance with Intelligent Transportation Systems (ITS) National Architecture.** Intelligent Transportation System (ITS) property and services, recommended and included in designs provided by the Contractor under this Contract, must comply with the National ITS Architecture and Standards to the extent required by 23 U.S.C. § 517(d) as amended by MAP-21, Section 5307(c) of SAFETEA-LU, FTA Notice, “FTA National ITS Architecture Consistency Policy for Transit Projects,” 66 FR 1455 et seq., January 8, 2001, 23 CFR Parts 655 and 940, and later published FTA and FHWA regulations, rules, policies, implementing guidance and directives. Additionally, such ITS equipment and designs shall comply with the latest ITS architecture and standards adopted by the FHWA, FDOT, CoJ and First Coast ITS Coalition.
22. **Metric Measurements.** To the extent practicable and feasible, the Contractor shall express all dimensions in metric measurements, in compliance with the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act, 15 U.S.C. Sections 205a et seq.; Executive Order No. 12770, “Usage in Federal Government Programs,” July 25, 1991, 15 U.S.C. Section 205a note; and applicable federal regulations.
23. **Electronic Reports and Information.** Reports and other information prepared in electronic format developed under this Contract, whether as a contract end item or in compliance with contract administration provisions, must comply with the accessibility standards of Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C.

Section 794d, and ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 CFR Part 1194.

**24. Access to Records and Sites of Project Performance and Record Retention.**

- a. The Contractor shall maintain all Contract records (including paper and electronic records) in a manner so that they are readily accessible for review, audit and inspection and shall provide to the Authority, the USDOT, the FHWA Administrator, the FTA Administrator, the Comptroller General of the United States, the FDOT, or any of their authorized representatives or employees, access to any data, accounts, payrolls, project work, project materials, documents, reports, records, statistics, subagreements, leases, third party contracts, arrangements, books, papers and records of the Contractor (and all supporting material related thereto) which are related to this Contract for the purposes of making audits, inspections, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.15 to provide the agencies, or their authorized representatives including any PMO Contractor, access to Contractor's records and work sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. In accordance with 49 CFR 18.40, federal agencies may make site visits as warranted by program needs.
- b. The Contractor agrees to permit any of the foregoing parties to reproduce any record by any means whatsoever.
- c. The Contractor agrees to maintain all books, records, accounts and reports required under this Contract for a period of not less than five (5) years after the date of termination, expiration or final payment of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract or other pending matters, in which case Contractor agrees to maintain same until the Authority, the FTA Administrator, the Comptroller General, the FDOT, and any of their duly authorized representatives, have disposed of all such litigation, appeals, claims, exceptions and other matters related thereto. Reference 49 CFR 18.36(i)(11).
- d. Any of the agencies listed above may, at any time during normal business hours, with or without prior notice and by or through its employees or its Contractors, inspect, copy and audit all of the books and records of the Contractor (and its subcontractors, if any) including all work papers and correspondence and financial records related to such services.

**25. Access Requirements for Persons with Disabilities (ADA).** The Contractor agrees to comply with the requirements of 49 U.S.C. § 5301(d) which expresses the federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement those policies. The Contractor also agrees to comply with all applicable requirements of sections 503 and 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits

discrimination on the basis of handicaps, and with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires the provision of accessible facilities and services, and with the following federal regulations, including any amendments thereto: (1) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. Part 37; (2) U.S. DOT regulations, “Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. Part 27; (3) Joint U.S. Architectural and Transportation Barriers Compliance Board/U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. Part 1192 and 49 C.F.R. Part 38; (4) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. Part 35; (5) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. Part 36; (6) U.S. GSA regulations, “Accommodations for the Physically Handicapped,” 41 C.F.R. Subpart 101-19; (7) 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; (8) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled,” 47 C.F.R. Part 64, Subpart F; and (9) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. Part 609; and (10) Any implementing requirements FTA may issue.

This section applies to subcontractors at all levels and must be added to all subcontracts, regardless of tier.

**26. Title VI List of Pertinent Nondiscrimination Acts and Authorities (DOT Order No. 1050.2A).**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”) agrees to comply with the following non- discrimination statutes and authorities; including but not limited to:

- a. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- b. 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- c. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- d. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- e. The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- f. Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- g. The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age

Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- h. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- i. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- k. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- l. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- m. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

**27. Energy Conservation.** The Contractor shall comply with the Florida Energy Efficiency Code for Building Construction and all mandatory standards and policies relating to energy efficiency, when applicable.

**28. Rights in Data.**

- a. The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.
- b. The following restrictions apply to all subject data first produced in the performance of this Contract:

- i. Except for its own internal use, the Authority or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Authority or Contractor authorize others to do so, without the written consent of the federal government, until such time as the federal government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.
- ii. In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the federal government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "federal government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for federal government purposes," means use only for the direct purposes of the federal government. Without the copyright owner's consent, the federal government may not extend its federal license to any other party.
  1. Any subject data developed under that contract, whether or not a copyright has been obtained; and
  2. Any rights of copyright purchased by the Authority or Contractor using federal assistance in whole or in part provided by FTA.
- iii. When FTA awards federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Authority and the Contractor performing experimental, developmental, or research work required by this Contract agrees to permit FTA to make available to the public, either the license in the copyright to any subject data developed in the course of this Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying Contract, is not completed for any reason whatsoever, all data developed under that Contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the federal government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Authority or Contractor's use whose costs are financed in whole or in part with federal assistance provided by FTA for transportation capital projects.
- iv. Unless prohibited by state law, upon request by the federal government, the Authority and the Contractor agree to indemnify, save, and hold harmless the federal government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by



the Authority or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Authority nor the Contractor shall be required to indemnify the federal government for any such liability arising out of the wrongful act of any employee, official, or agents of the federal government.

- v. Nothing contained in this clause on rights in data shall imply a license to the federal government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the federal government under any patent.
- vi. Data developed by the Authority or Contractor and financed entirely without using federal assistance provided by the federal government that has been incorporated into work required by the Contract is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Authority or Contractor identifies that data in writing at the time of delivery of the Contract work.
- vii. Unless the federal government determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with federal assistance.

**29. Seatbelt Use.** The Supplier shall require all operators of motor vehicles (whether rented or owned) to use seatbelts.

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

**31. Policies on Texting while Driving and Distracted Driving.** The Contractor shall prohibit text messaging while driving and distracted driving and comply with the intent of Executive Order No. 13513, 23 USC section 402 note and DOT Order 3902.10.

**32. EQUAL EMPLOYMENT OPPORTUNITY CLAUSE (41 CFR PART 60 1.4(b); DOT Order No. 1050.2A).**

During the performance of this Contract, the Contractor, for itself, its assigns, and successors in interest (hereafter referred to as "Contractor") agrees as follows:

- a. The Contractor (herein after includes consultants and subcontractors) will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. 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. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- c. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedure authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The Contractor will include the portion of the sentence immediately preceding paragraph 1 and the provisions of paragraphs 1 through 7 in every Subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any Subcontract or purchase

order as the administering agency may direct as a means of enforcing such provision, including sanctions for noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

- h. This clause must be included in any subcontract that exceeds \$10,000.

### 33. **Compliance with 41 CFR 60-1.7 – Equal Opportunity Reports.**

The Contractor shall comply with the reporting requirements of 41 CFR 60-1.7, when applicable. The regulation is copied verbatim here: (a) *Requirements for prime contractors and subcontractors*

- a. Each prime contractor and subcontractor shall file annually, on or before the September 30, complete and accurate reports on Standard Form 100 (EEO-1) promulgated jointly by the Office of Federal Contract Compliance Programs, the Equal Employment Opportunity Commission and Plans for Progress or such form as may hereafter be promulgated in its place if such prime contractor or subcontractor (i) is not exempt from the provisions of these regulations in accordance with §60-1.5; (ii) has 50 or more employees; (iii) is a prime contractor or first tier subcontractor; and (iv) has a contract, subcontract or purchase order amounting to \$50,000 or more or serves as a depository of Government funds in any amount, or is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes: *Provided*, That any subcontractor below the first tier which performs construction work at the site of construction shall be required to file such a report if it meets requirements of paragraphs (a)(1) (i), (ii), and (iv) of this section.
- b. Each person required by §60-1.7(a)(1) to submit reports shall file such a report with the contracting or administering agency within 30 days after the award to him of a contract or subcontract, unless such person has submitted such a report within 12 months preceding the date of the award. Subsequent reports shall be submitted annually in accordance with §60-1.7(a)(1), or at such other intervals as the Deputy Assistant Secretary may require. The Deputy Assistant Secretary may extend the time for filing any report.
- c. The Deputy Assistant Secretary or the applicant, on their own motions, may require a contractor to keep employment or other records and to furnish, in the form requested, within reasonable limits, such information as the Deputy Assistant Secretary or the applicant deems necessary for the administration of the order.
- d. Failure to file timely, complete and accurate reports as required constitutes noncompliance with the prime contractor's or subcontractor's obligations under the equal opportunity clause and is ground for the imposition by the Deputy Assistant Secretary, an applicant, prime contractor or subcontractor, of any sanctions as authorized by the order and the regulations in this part.

34. **Veterans Employment.** The Contractor shall give a hiring preference to veterans (as defined in 5 USC §2108) who have the skills and abilities required to perform construction work

required for a capital project supported with funds made available or appropriated for 49 USC chapter 53; provided, however, the Contractor may not give a hiring preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability or a former employee.

## II. CLAUSES FOR CONTRACTS EXCEEDING \$150,000

1. **Clean Air.** The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report the use of facilities on or likely to be placed on the U.S. EPA "List of Violating Facilities," refrain from using any violating facilities, comply with inspection requirements and report each violation to the Authority. The Contractor understands and agrees that the Authority will, in turn, report each violation as required to assure notification to the FTA or FHWA and the appropriate EPA Regional Office.
2. **Clean Water.** The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq. The Contractor agrees to report the use of facilities on or likely to be placed on the U.S. EPA "List of Violating Facilities," refrain from using any violating facilities, comply with inspection requirements and report each violation to the Authority. The Contractor understands and agrees that the Authority will, in turn, report each violation as required to assure notification to the FTA or FHWA and the appropriate EPA Regional Office.
3. **Recycled Products.** When relevant to the Work Order, the Contractor shall assist the Authority with compliance with the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6962, which requires the Authority to provide a competitive preference to products and services that conserve natural resources, protect the environment, and are energy efficient. EPA guidelines, "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 CFR Part 247, direct the Authority to specify a competitive preference for products containing recycled materials identified in those EPA guidelines for contracts valued at \$10,000 or more. For information about EPA's recovered materials advisory notices, see EPA's Web site:  
<http://www.epa.gov/cpg/backgrnd.htm>.
4. **Contract Work Hours and Safety Standards.**
  - a. Overtime requirements - No contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
  - b. Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and

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

- c. Withholding for unpaid wages and liquidated damages - The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- d. Subcontracts - The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

35. **FOR OPERATIONAL SERVICE CONTRACTS**

- 1. **Drug & Alcohol Testing Program** – When the Contract involves FTA funding under 49 U.S.C. 5307, 5309, 5311, the Contractor is an employer as defined by 49 CFR 655. The Contractor shall comply with all of the requirements of 49 CFR 655 and any related regulations or guidance issued by the FTA. The Contractor shall establish an anti-drug use and alcohol misuse program that includes the following:
  - a. A statement describing the employer's policy on prohibited drug use and alcohol misuse in the workplace, including the consequences associated with prohibited drug use and alcohol misuse. This policy statement shall include all of the elements specified in §655.15. Each employer shall disseminate the policy consistent with the provisions of §655.16.
  - b. An education and training program which meets the requirements of §655.14.
  - c. A testing program, as described in Subparts C and D of this part, which meets the requirements of this part and 49 CFR Part 40.
  - d. Procedures for referring a covered employee who has a verified positive drug test result or an alcohol concentration of 0.04 or greater to a Substance Abuse Professional, consistent with 49 CFR Part 40.
- 2. **Privacy Act.** When the Contractor maintains files on drug and alcohol enforcement

activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the 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.

The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the federal government financed in whole or in part with federal assistance provided by FTA.

3. **Transit Employee Protection.** The Contractor agrees to the comply with applicable transit employee protective requirements as follows:
  - a. **General Transit Employee Protective Requirements -** To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this Contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the Authority's Project from which Federal assistance is provided to support work on the underlying Contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.
  - b. **Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities -** If the Contract involves transit operations financed in whole or in part with federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying Contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying Contract in

compliance with the conditions stated in that U.S. DOL letter.

- c. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas- If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.
  - i. The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.
4. **Motor Carrier Safety.** The Contractor shall comply with all applicable Motor Carrier regulations, including 49 CFR §390-396 and §382-383 and §173 to the extent applicable.

36. **CONSTRUCTION SPECIFIC CLAUSES**

1. **Special Equal Employment Opportunity Clause for Construction**

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (Executive Order 11246)

- a. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.
- b. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:
  - i. Time- tables
  - ii. Goals for minority participation for each trade: 21.8%
  - iii. Goals for female participation in each trade: 6.9%

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the Contract, and in each trade, and the contractor shall make a good

faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the Contract, the Executive Order and the regulations in 41 CFR part 60-4. Compliance with the goals will be measured against the total work hours performed.

- c. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the Contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.
- d. As used in this Notice, and in the Contract resulting from this solicitation, the "covered area" is Duval County, Florida.

## **2. Additional Equal Opportunity Clauses for Construction Contracts**

- a. The equal opportunity clause published at 41 CFR 60-1.4(a) and published at 41 CFR 60-1.4(b) are incorporated herein by reference. In addition to those clauses, the following applies to all construction contracts and subcontracts in excess of \$10,000.

### STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (Executive Order 11246)

- i. As used in these specifications:
  1. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
  2. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
  3. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
  4. "Minority" includes:
    - a. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);



- b. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
  - c. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
  - d. American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
- ii. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this Contract resulted.
- iii. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
- iv. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this Contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance

Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

- v. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
- vi. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
- vii. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
  - 1. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - 2. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
  - 3. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor

by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

4. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
5. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
6. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
7. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
8. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and subcontractors with whom the Contractor does or anticipates doing business.

9. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
  10. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
  11. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.
  12. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  13. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
  14. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  15. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  16. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
- viii. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union,

contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

- ix. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
- x. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, age, disability, or family status.
- xi. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- xii. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
- xiii. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the

Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

- xiv. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
  - xv. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).
- b. The notice set forth in 41 CFR 60-4.2 and the specifications set forth in 41 CFR 60-4.3 replace the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and Federally Assisted Construction published at 41 FR 32482 and commonly known as the Model Federal EEO Bid Conditions, and the New Form shall not be used after the regulations in 41 CFR part 60-4 become effective.

**37. FOR CONTRACTS INVOLVING LABORERS AND MECHANICS EXCEEDING \$2,000)**

**Davis-Bacon, Copeland Anti-Kickback Acts and Safety at the Construction Site.** The Contractor shall comply with federal transit laws, including 49 USC §5333(a) ("FTA's Davis Bacon Related Act"), the Davis Bacon Act at 40 USC §§3141-3144, 3146 and 3147, related Department of Labor (DOL) regulations at 29 CFR Part 5, Sections 102 and 107 of the Contract Work Hours and Safety Standards Act, as amended, 40 USC §3702 and §3701, Section 1 of the Copeland "Anti-Kickback" Act as amended at 18 USC §874, Section 2 of the Copeland "Anti-Kickback" Act as amended at 40 USC §3145, related DOL regulations at 29 CFR Part 3 and 29 CFR Part 1926 and the Fair Labor Standards Act (FLSA), 29 USC §201, to the extent applicable.

- a. 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.

1. 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:
  - a. 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
  - b. The classification is utilized in the area by the construction industry; and
  - c. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

- d. 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.
  2. 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.
  3. 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.
  4. 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.

1. 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:
  - a. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
  - b. The classification is utilized in the area by the construction industry; and
  - c. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
2. 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.
3. 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.
4. 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.

- b. Withholding - The Authority 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, the Authority 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.
- c. 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.

1. The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Authority 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.
2. 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:
  - a. 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;
  - b. 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;
  - c. 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.
3. 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.
4. 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.

d. 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.
- e. 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.

- f. 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.
- g. 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.
- h. 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.
- i. 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.
- j. 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).

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