

03-FIN-2022 Local Government Financial Software



Request for Proposal (RFP)# 03-FIN-2022

Local Government Financial Software

August 1, 2022

Proposals must be received at PART by 3:00 p.m. Eastern Standard Time. **Friday, August 31, 2022.**

Submittals must be in a sealed envelope, marked with the name and address of the offeror, the due date, and

RFP#03-FIN-2022 addressed to:

Andrew Sowers
PART Grants & Procurement Specialist
Piedmont Authority for Regional Transportation
107 Arrow Rd.
Greensboro, NC 27409

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SUMMARY

This Request for Proposal is set forth to detail the requirements and conditions for providing Local Government Financial Software for the Piedmont Authority for Regional Transportation (PART). The Proposer shall provide the required software and support and shall be qualified to furnish a complete and efficient solution including software and hosting. **The deadline to submit proposals is August 31, 2022.** The award will be granted for five (5) years with the option to extend the agreement on an annual basis on yearly intervals up to a total of seven (7) years. The extensions are at the discretion of PART and will be based on annual expense and performance of service.

The Piedmont Authority for Regional Transportation reserves the right to accept or reject any submission that does not benefit the PART organization. PART also reserves the right to waive minor technicalities in the proposal. There are no guarantees of award for the submitted proposals, and all expense related to preparing a submission for this RFP is the proposer's responsibility. It is anticipated that Federal Transit Administration (FTA), State, and PART funds will be utilized to support this project's expense. Therefore, applicable rules and regulations must be observed, and are enclosed for your reference as Appendix A.

Procurement Schedule

Below is a listing of the key dates related to this procurement:

RFP Released	Monday, August 1, 2022
Pre-Proposal Meeting (virtual / in person) 2:00pm EDT	Wednesday, August 17, 2022
Questions due from Vendors	Friday, August 19, 2022
Responses to questions posted on the website	Wednesday, August 24, 2022
Proposal Submission Deadline (3:00 PM)	Wednesday, August 31, 2022
Proposal Evaluations	Thursday, September 1, 2022 – Wednesday, September 14, 2022
Interviews and Product Demonstrations for Competitive Range Vendors (virtual / in person)	Monday, September 19, 2022 – Friday, September 23, 2022
BAFO Due	Friday September 30, 2022
Board Approval	October 12, 2022
Notification of Award	October 12, 2022

Please be aware that these dates and activities are subject to change. **Related information will be posted on the PART website at www.partnc.org/bids.aspx**

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The Project Scope

The essential functions identified in this proposal focus on providing software solutions for the Finance and Administration department. Optional features are also identified that will address current and future agency software needs. Proposers are not required to meet all optional features to be considered “responsive and responsible” but the ability to meet all potential needs will be considered when evaluating proposals.

Baseline Essential Functions/Features

- Fund Ledger
- Budgeting
- Accounts Payable
- Accounts Receivable
- Purchasing
- Payroll
- Human Resources
- Fixed Asset Management

Optional Functions/Features

Optional Features can be met either as features within baseline modules or as expansion modules. Designate if these capabilities are included within the base fee structure or are add on costs. Additionally, if these needs can be substantially met by other capacities of the baseline modules identify this within the proposal.

- Grants Management
- Contract Management
- Bank Reconciliation
- Procurement
- GASB-87 Lease Tracking

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[Submission Requirements, Instructions, and Information](#)

Respondents should complete all sections of the RFP. If additional material is required for one or more questions, please label attachments clearly and reference them in your response. Responses received under this RFP that fail to address each of the sections in adequate and complete detail; will be deemed as non-responsive and will not be considered for selection.

1. Table of Contents

The table of contents should outline in sequential order the major areas of the submittal, including enclosures. All pages must be consecutively numbered and correspond to the Table of Contents.

2. Proposal Cover Letter

Provide a Letter of Interest with a detailed narrative that addresses the scope of services and any other information requested by the RFP.

3. Firm Details

Point of contact (name, title, phone number, mailing address, and email address) and number of employees.

4. Qualifications of the Firm

- A description of your organization, including a brief history, and an organizational chart. If your organization is part of a larger entity, show its relationship to the parent organization and other components. Also, list any designated sub-contracting firm (If the firm retains any sub-contractor to perform work on this project sub-contractor (s) are required to adhere to the contract as signed by the agency).
 - If applicable, Vendors should provide the date and briefly describe the nature of the most recent sale or significant restructuring of their organization.
 - Turnover rate, Average employee turnover.
 - How long has the firm been providing public sector finance software?
- Please identify the team that will be assigned to the account and describe how you plan to interact with PART and any third-party providers that may provide services.

5. Solutions

Describe your proposed solution to meet the baseline and optional features required. If firms offer multiple products that can meet the needs of the RFP proposers are encouraged to present scalable solutions options within a single proposal and to submit substantially different products as separate proposals.

- Baseline:
 - Fund Ledger
 - Budgeting
 - Accounts Payable
 - Accounts Receivable
 - Purchasing
 - Payroll
 - Human Resources
 - Fixed Asset Management

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- Optional:
 - Grants Management
 - Contract Management
 - Bank Reconciliation
 - Procurement
 - GASB-87 Lease Tracking

6. Implementation

- Fully describe your implementation process and identify major milestones.
 - If we elect to move forward with your organization, what PART resources would you require (e.g., information, data, staff resources, communication) during implementation and on an ongoing basis?
 - From the date of the award, please identify the estimated length of time until major implementation milestones are reached.
- Identify what training is provided and on what timetable.
- Identify what validation steps

7. Fee

- Please indicate the charges associated with Local Government Financial Software as identified in SOW. The cost structure must be complete and thorough. A **Price Form** (below) is provided to be submitted along with the proposal.
 - If multiple modules are included in one charge, list price as “included with (Identify Product)” and only price once.
- Fees should be submitted for Years 1-5 (base term) and 2 optional annual extensions.
 - Unit Measurement should identify both unit of cost and frequency. Example: User / Year, User / Month, One Time Charge, Annual Flat Fee, Monthly Flat Fee, or other structures as appropriate.
- Invoice Payments will be based on the following milestone progression:
 - 25% upon Contract award and Signature
 - 25% upon installation and applicable transition of data from the current system
 - 40% upon go live with full implementation
 - 10% 6 months after implementation and proven performance.

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Price Form

	Unit Measurement	Per Unit Cost	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6 (Extension)	Year 7 (Extension)
Implementation									
Training									
On-Site Support (If Applicable)									
Virtual Support									
Essential Functions									
Fund Ledger									
Budgeting									
Accounts Payable									
Accounts Receivable									
Purchasing									
Payroll									
Human Resources									
Fixed Asset Management									
Optional Features									
Grants Management									
Contract Management									
Bank Reconciliation									
Procurement									
GASB-87 Lease Tracking									

Quoted prices should be the vendor’s best possible offering to the PART Organization. Prices must be inclusive. Bundled prices should be clearly identified so the evaluators have a clear understanding of what is and is not included in the price.

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8. Support

Fully describe your technical support options, including the assistance request process, escalation process, support hours, response times, staffing levels, staff expertise, and physical location of the help desk. Identify which support options are included with the regular billing and which will incur additional costs.

9. References

Three references are required. References should include a minimum of a phone number, email address, organization, name, and title. Part reserves the right to seek additional references and incorporate those into the overall evaluation of references.

- At least 1 reference should be for a project fully implemented within the previous 2 years.

Please address the following questions

- Do you have other Transit Agency Clients? Other clients in this region? If Yes, who?
- What is your client retention rate?

10. Completed and Signed Federal Contract Clause Document

This project will be funded with federal and local government funds. The required federal contract clauses (Appendix A) are a required submittal for any project to be considered a responsive and responsible submittal.

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Proposal Submission

Submittals received at any other location than the below or after the Proposal submission date and time shall be deemed non-responsive. Submittals should be signed by an official authorized to bind the Proposer to the provisions given in the Proposal. Proposals are to remain valid **for at least 90 days.**

Upon award of contract, the contents of the Proposal of the Successful Proposer(s) may be included as part of the Contract, at PART's discretion.

One (1) Original Hard Copy and Two (2) Hard Copies and one (1) digital copy (USB) of your complete response to this RFP must be delivered to the below address by August 31, 2022.

**Piedmont Authority for Regional Transportation
Andrew Sowers
107 Arrow Road
Greensboro, North Carolina 27409
Email: andrews@partnc.org**

Submittals must be clearly marked on the outside of the package referencing RFP NO. 03-FIN-22.

FAILURE TO SUBMIT ALL OF THE ABOVE REQUIRED DOCUMENTATION MAY DISQUALIFY THE PROPOSER.

RFP Evaluation Criteria

It is the task of the evaluation committee to independently score each proposal and determine which proposal is the "Best Value" to PART based upon the evaluation method scoring and final proposal costs. The Vendor deemed to be the "Best Value" will be recommended to the PART Board for approval.

Proposals will be evaluated by PART using the following criteria of Weighted Factor:

Factor	Weight
a. Cost projections or fee proposal (The lowest Cost Proposal will receive 25 points. Every other Proposal will be given points proportionately in relation to the lowest price) <i>Example: Lowest Proposed Price / Proposer's Proposed Price × 25 = Proposal Score</i>	25
b. Solution Offered	40
c. Implementation Plan	15
d. Experience on similar assignments with other organizations	5
e. References – minimum 3	10
Total Points	100

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Special Conditions of Proposed Contract

General

The Contractor shall comply with all applicable laws, PART Licenses, and code provisions. The Contract shall include certain clauses which will safeguard the interests of the PART including, without limitations, cancellation for convenience, hold harmless/indemnity, no damages for delay, and no adverse interest to PART's clauses. The Contract shall address, but not be limited to, the following terms and conditions:

Amendments to the Contract

The PART CEO / General Manager or his authorized designee shall have sole authority to amend the Contract on behalf of the PART.

Termination for Cause

Either Party may cancel this Contract by notifying the other Party in writing thirty (30) days prior to the proposed termination date, specifying the other Party's failure to perform under this contract. If the failure to perform is curable, the defaulting party shall be given an opportunity to cure the default within a reasonable period, by notifying the non-defaulting party within ten (10) business days of receiving notice of cancellation. As necessary, the cure period shall be extended; provided that, the defaulting party has initiated the process and is utilizing commercially reasonable efforts to cure the default.

Termination for Convenience

Either Party may terminate this contract upon 30 days written notice to the other party for any reason.

Assignment of Contract

The Successful Proposer shall not assign any portions of the Contract, or any part of his/her operations, without written permission granted by the PART through the CEO / General Manager, in PART's sole discretion.

Compliance with Orders, Laws and Cancellation

The Successful Proposer shall comply with all local, state, and federal directives, ordinances, rules, orders, and laws as applicable to this RFP. Non-compliance with all local, state, and federal directives, orders, and laws may be considered grounds for termination of the Contract.

Conflict of Interest

If any individual member of the Successful Proposer, or an employee of a Proposer, or an immediate family member of the same is also a member of any board, commission, or agency affiliated with PART, that individual is subject to PART's conflict of interest policy.

Successful Proposer Contact

Successful Proposer shall include the name, office address and mobile number of the firm's intended Contact. In the event a Contract is awarded to Proposer, the Contact shall be available at one of these contact numbers on a daily basis for purposes of addressing complaints and receiving information as to Contract performance.

Indemnification

The Successful Proposer(s) shall agree to indemnify, defend and hold harmless PART and its officials, employees and agents (collectively referred to as "Indemnitees") and each of them from and against all losses, costs, penalties, fines, damages, claims, expenses (including attorney's fees), liabilities (collectively

referred to as “Liabilities”) by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with the performance or non-performance of the services contemplated by the Contract which is or is alleged to be (1) directly or indirectly caused, in whole or in part, by any act, omission, default or negligence (whether active or passive) of the Indemnities, or any of them or (2) the failure of the Successful Proposer to comply with any of the requirements specified within the Contract, or the failure of the Successful Proposer to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal or state, in connection with the performance under the Contract. Successful Proposer expressly agrees to indemnify and hold harmless the Indemnitees, or any of them, from and against all liabilities which may be asserted by an employee or former employee of Successful Proposer, or any of its subcontractors, if applicable and as provided above, for which the Successful Proposer’s liability to such employee or former employee would otherwise be limited to payments under state Workers’ Compensation or similar laws. The Indemnifications will be interpreted to comply with North Carolina Statutes.

Insurance

Within ten (10) days after notification of award, the Successful Proposer shall furnish evidence of insurance to PART. Execution of a Contract is contingent upon the receipt of proper insurance documents. If the insurance certificate is received within the specified time frame, but not in the manner prescribed in this RFP, the Successful Proposer shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to PART. If the Successful Proposer fails to submit the required insurance documents in the manner prescribed in this RFP, within fifteen (15) calendar days after the Successful Proposer has been awarded contract, the Proposer may be in default of the Contract’s terms and conditions. Under such circumstances, the Successful Proposer may be prohibited from submitting future responses to PART. Information regarding any insurance requirements shall be directed to the Contract’s Administrator, Andrew Sowers at 336-291-4327. Additionally, Successful Proposer may be liable to PART for the cost of re-procuring the services, caused by Successful Proposer’s failure to submit the required documents.

Hold harmless

The Successful Proposer shall hold harmless and indemnify PART for any errors in the provision of services and for any fines which may result from the fault of the Successful Proposer.

Audit Rights and Records Retention

The Successful Proposer agrees to provide access to PART, or to any of its duly authorized representatives, to any books, documents, papers, and records of the Successful Proposer which are directly pertinent to this Contract, for the purpose of audit, examination, excerpts, and transcriptions. The Successful Proposer shall maintain and retain any and all books, documents, papers and records pertinent to the Contract for three (3) years after PART makes final payment under the Contract and all other pending matters are closed. Successful Proposer’s failure to adhere to, or refusal to comply with, this condition shall result in the immediate cancellation of the Contract by PART.

Proposer’s Warranty

Proposer warrants that no one was paid a fee, commission, gift, or other consideration contingent upon receipt of an award for the services specified herein.

RFP Protest Procedures

All RFP protests must be in writing, stating the name and address of protestor, a contact person, Contract number and title. RFP protests shall specify in detail the grounds of the protest and the facts supporting the protest.

Address

All protests must be addressed as follows:

PART Agency contact: **Scott W. Rhine, PART CEO/General Manager**

For special delivery, hand delivery or U.S. Mail: **107 Arrow Road, Greensboro, NC 27409**

Protests not properly addressed to the address shown above may not be considered by the PART Agency.

Copies of the PART Agency's protest procedures and the protest provisions of FTA Circular 4220.1F or its successor may be obtained from Andrew Sowers, 107 Arrow Rd., Greensboro NC 27409; 1-336-291-4327, andrews@partnc.org. Proposals will be opened, and a Notice of Award will be issued by the PART Agency in accordance with the PART Agency's protest procedures and the protest provisions of FTA Circular 4220.1F, or its successor.

Pre-Proposal Protests

Pre-Proposal protests are protests based upon the content of the solicitation documents. Three copies of Pre-Proposal protests must be received by the PART Agency's office no later than fifteen (15) calendar days prior to the Due Date for Proposals. Protests will be considered and either denied or sustained in part or in whole, in writing, in a manner that provides verification of receipt, prior to the Due Date for Proposals. If the protest is sustained, then the Proposal Due Date may be postponed and an addendum issued to the solicitation documents or, at the sole discretion of the PART Agency, the solicitation may be canceled. If the protest is denied, then Proposals will be received and opened on the scheduled date unless a protest is filed with FTA. See "FTA Review," below.

Protests on the Recommended Award

All Proposers will be notified of the recommended award. This notice will be transmitted to each Proposer at the address contained in its Proposal in a manner that provides verification of receipt. Any Proposer whose Proposal has not lapsed may protest the recommended award on any ground not specified in "Pre-Proposal Protests," above. Three (3) copies of a full and complete written statement specifying in detail the grounds of the protest and the facts supporting the protest must be received by the PART Agency at the appropriate address in "Address," above, no later than fifteen (15) calendar days after the date the notification of recommended award is received. Prior to the issuing of the Notice of Award, a written decision stating the grounds for allowing or denying the protest will be transmitted to the protestor and the Proposer recommended for award in a manner that provides verification of receipt.

FTA Review

After such administrative remedies have been exhausted, an interested party may file a protest with the Federal Transit Administration of the U.S. Department of Transportation pursuant to the procedures provided in the FTA C 4220.1 or its successor. FTA review is limited to the alleged failure of the PART Agency to have written protest procedures, the alleged failure of the PART Agency to follow those

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procedures, the alleged failure of the PART Agency to review a protest or the alleged violation of federal law or regulation.

Appendix A: Federal Contract Clauses

The Piedmont Authority for Regional Transportation, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders/proposers that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to the invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The following documents should be reviewed and must be signed and returned with your project proposal.

FEDERAL TRANSIT ADMINISTRATION

Federally Required and Other Model Contract Clauses

1. No Government Obligation to Third Party
2. Program Fraud and False or Fraudulent Statements
3. Access to Records and Reports
4. Federal Changes
5. Termination
6. Energy Conservation Requirement
7. Patent Rights and Rights in Data
8. Clean Water Requirements
9. Clean Air
10. Breaches and Dispute Resolution
11. Fly America Requirements
12. Cargo Preference Requirements
13. Civil Rights Requirements (document requiring signature)
14. DBE (Disadvantage Business Enterprise)
15. Incorporation of FTA Terms (document requiring signature)
16. Recycled Products (document requiring signature)
17. Suspension and Debarment (document requiring signature)
18. Compliance with NC E-Verify (document requiring signature)
19. Buy America Requirements (document requiring signature)
20. Lobbying (document requiring signature)
21. Non-Collusion Affidavit (document requiring signature)

1. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicability to Contracts

The No Obligation clause applies to all third-party contracts that are federally funded.

Flow Down

The No Obligation clause extends to all third-party contractors and their contracts at every tier and sub recipients and their subcontracts at every tier.

No Federal Government Obligation to Third Parties.

The Recipient and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying 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 Recipient, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

49 U.S.C. § 5323(I) (1)

31 U.S.C. §§ 3801-3812

18 U.S.C. § 1001

49 C.F.R. part 31

Applicability to Contracts

The Program Fraud clause applies to all third-party contracts that are federally funded.

Flow Down

The Program Fraud clause extends to all third-party contractors and their contracts at every tier and sub recipients and their subcontracts at every tier. These requirements flow down to contractors and subcontractors who make, present, or submit covered claims and statements.

Program Fraud and False or Fraudulent Statements or Related Acts

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

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected

with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

3. ACCESS TO RECORDS AND REPORTS

49 U.S.C. § 5325(g)

2 C.F.R. § 200.333

49 C.F.R. part 633

Applicability to Contracts

The record keeping and access requirements apply to all contracts funded in whole or in part with FTA funds. Under 49 U.S.C. § 5325(g), FTA has the right to examine and inspect all records, documents, and papers, including contracts, related to any FTA project financed with Federal assistance authorized by 49 U.S.C. Chapter 53.

Flow Down

The record keeping and access requirements extend to all third-party contractors and their contracts at every tier and sub recipients and their subcontracts at every tier.

Access to Records and Reports

- a. Record Retention. The Contractor will retain and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.
- b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractor's access to the sites of performance under this contract as reasonably may be required.

4. FEDERAL CHANGES

49 CFR Part 18

Applicability to Contracts

The Federal Changes requirement applies to all contracts.

Flow Down

The Federal Changes requirement flows down appropriately to each applicable changed requirement.

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

5. TERMINATION

2 C.F.R. § 200.339

2 C.F.R. Part 200, Appendix II (B)

Applicability to Contracts

All contracts in excess of \$10,000 must address termination for cause and for convenience, including the manner by which it will be effected and the basis for settlement.

Flow Down

For all contracts in excess of \$10,000, the Termination clause extends to all third-party contractors and their contracts at every tier and sub recipients and their subcontracts at every tier.

Termination for Convenience (General Provision)

PART may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in PART's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to PART to be paid the Contractor. If the Contractor has any property in its possession belonging to PART, the Contractor will account for the same, and dispose of it in the manner PART directs.

Termination for Default [Breach or Cause] (General Provision)

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, PART may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by PART that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor,

PART, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Opportunity to Cure (General Provision)

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

Waiver of Remedies for any Breach

In the event that PART elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by PART shall not limit PART's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

6. ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq.

49 CFR Part 18

Applicability to Contracts

The Energy Conservation requirements are applicable to all contracts.

Flow Down

The Energy Conservation requirements extend to all third-party contractors and their contracts at every tier and sub recipients and their sub agreements at every tier.

Energy Conservation - The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

7. PATENT RIGHTS AND RIGHTS IN DATA

2 C.F.R. part 200, Appendix II (F)

37 C.F.R. part 401

Applicability to Contracts

If the recipient or subrecipient wishes to enter into a contract (or subcontract) with a small business firm or nonprofit organization for the performance of experimental, developmental, or research work under the FTA, FHWA or Contracting agent award, the recipient or subrecipient must comply with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any

implementing regulations issued by the awarding agency. Except in the case of an “other agreement” in which the Federal Government has agreed to take more limited rights, the Federal Government is entitled to a non-exclusive, royalty free license to use the resulting invention, or patent the invention for Federal Government purposes. The FTA, FHWA or Contracting agent have the right to:

1. Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and
2. Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

Flow Down

The Patent Rights and Rights in Data requirements flow down to all third party contractors and their contracts at every tier that meet the definition of a research-type project under 37 U.S.C. § 401.2.

Intellectual Property Rights

This Project is funded through a Federal award for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The Contractor shall grant the AGENCY intellectual property access and licenses deemed necessary for the work performed under this Agreement and in accordance with the requirements of 37 C.F.R. part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by FTA, FHWA, U.S. DOT or Contracting agent,. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Agreement and shall, at a minimum, include the following restrictions: Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of FTA, FHWA or Contracting agent, until such time as FTA, FHWA or Contracting agent 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. For purposes of this agreement, the term “subject data” means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of “subject data” include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

1. 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 below. 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. a. Any subject data developed under the Contract, whether or not a copyright has been obtained; and b. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA, FHWA or contracting agent.

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2. Unless FTA, FHWA or Contracting agent determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA, FHWA or Contracting agent to make available to the public, FTA, FHWA or Contracting agent's license in the copyright to any subject data developed in the course of the 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 this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.
3. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees 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 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. 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.
4. 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.
5. Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work.
6. 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.

8. CLEAN WATER REQUIREMENTS

33 U.S.C. 1251

Applicability to Contracts

The Clean Water requirements apply to each contract and subcontract which exceeds \$100,000.

Flow Down

The Clean Water requirements flow down to FTA, FHWA or contracting agent recipients and subrecipients at every tier.

Clean Water

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn,

report each violation as required to assure notification to FTA, FHWA, contracting agent and the appropriate EPA Regional Office.

2. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA, FHWA and contracting agent.

9. CLEAN AIR

42 U.S.C. 7401 et seq

40 CFR 15.61

49 CFR Part 18

Applicability to Contracts

The Clean Air requirements apply to all contracts exceeding \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year.

Flow Down

The Clean Air requirements flow down to all subcontracts which exceed \$100,000.

Clean Air

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA, FHWA or Contracting agent and the appropriate EPA Regional Office.

2. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA, FHWA or Contracting agent.

10. BREACHES AND DISPUTE RESOLUTION

49 CFR Part 18

Applicability to Contracts

All contracts in excess of \$100,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

Flow Down

The Breaches and Dispute Resolutions requirements flow down to all tiers.

Disputes

Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of PART CEO / General Manager. This

decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the PART CEO / General Manager In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the PART CEO / General Manager shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by PART, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

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

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the PART and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the PART is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the PART, (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

11. FLY AMERICA REQUIREMENTS

49 U.S.C. § 40118

41 CFR Part 301-10

48 C.F.R. part 47.4

Applicability to Contracts

The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation. Transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier's designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air transportation agreement to which the U.S. Government and a foreign government are parties and which the Federal DOT has determined meets the requirements of the Fly America Act.

Flow Down

The Fly America requirements flow down from FTA recipients and sub recipients to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance.

Model Clause/Language

The relevant statutes and regulations do not mandate any specified clause or language. FTA proposes the following language.

Fly America Requirements

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. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

12. CARGO PREFERENCE REQUIREMENTS

46 U.S.C. 1241

46 CFR Part 381

Applicability to Contracts

The Cargo Preference requirements apply to all contracts involving equipment, materials, or commodities which may be transported by ocean vessels.

Flow Down

The Cargo Preference requirements apply to all subcontracts when the subcontract may be involved with the transport of equipment, material, or commodities by ocean vessel.

Model Clause/Language

The MARAD regulations at 46 CFR 381.7 contain suggested contract clauses. The following language is proffered by FTA.

Cargo Preference

Use of United States-Flag Vessels - The contractor agrees:

- a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- b. to furnish within 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.

13. CIVIL RIGHTS LAWS AND REGULATIONS

29 U.S.C. § 623, 42 U.S.C. § 2000
 42 U.S.C. § 6102, 42 U.S.C. § 12112
 42 U.S.C. § 12132, 49 U.S.C. § 5332
 29 CFR Part 1630, 41 CFR Parts 60 et seq.

Applicability to Contracts

The following Federal Civil Rights laws and regulations apply to all contracts.

1. Federal Equal Employment Opportunity (EEO) Requirements. These include, but are not limited to: a. Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
- b. Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.
2. Nondiscrimination on the Basis of Sex. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 *et seq.* and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.
3. Nondiscrimination on the Basis of Age. The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 *et seq.*, and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 *et seq.*, and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.
4. Federal Protections for Individuals with Disabilities. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 *et seq.*, prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Flow Down

The Civil Rights requirements flow down to all third-party contractors and their contracts at every tier.

Civil Rights and Equal Opportunity

PART is an Equal Opportunity Employer. As such, PART agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, PART agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with 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, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e *et seq.*, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, 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 may issue.

3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*, U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

4. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §

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4151 *et seq.*, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

NONDISCRIMINATION CLAUSE

The Piedmont Authority for Regional Transportation, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders/proposers that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to the invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

It is specifically agreed as part of the consideration of the signing of this contract, that the parties hereto, their agents, officials, employees or servants will not discriminate in any manner on the basis of age, handicap, sex, race, color, creed, sexual orientation or national origin with reference to the subject matter of this contract, no matter how remote.

This provision being incorporated for the benefit of the agencies involved in soliciting this request its residents may be enforced as set out in said ordinances; enforcement of this provision shall be by action for specific performance, injunctive relief, or other remedy as by law provided. This provision shall be binding on the successors and assigns of the parties hereto with reference to the subject matter of this contract.

(THESE PROVISIONS SHALL BE PHYSICALLY ATTACHED TO AND ARE AN INTEGRAL PROVISION OF THE REFERENCED CONTRACT)

SIGNED: _____
President/Authorized Officer

TITLE: _____

DATE: _____

14. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

49 C.F.R. Part 26

Background and Applicability

The Disadvantaged Business Enterprise (DBE) program applies to FTA recipients receiving planning, capital and/or operating assistance that will award prime contracts (excluding transit vehicle purchases) exceeding \$250,000 in FTA funds in a Federal fiscal year. All FTA recipients above this threshold must submit a DBE program and overall triennial goal for DBE participation. The overall goal reflects the anticipated amount of DBE participation on DOT-assisted contracts. As part of its DBE program, FTA recipients must require that each transit vehicle manufacturer (TVM), as a condition of being authorized to bid or propose on FTA assisted transit vehicle procurements, certify that it has complied with the requirements of 49 C.F.R. § 26.49. Only those transit vehicle manufacturers listed on FTA's certified list of Transit Vehicle Manufacturers, or that have submitted a goal methodology to FTA that has been approved or has not been disapproved at the time of solicitation, are eligible to bid.

FTA recipients must meet the maximum feasible portion of their overall goal using race-neutral methods. Where appropriate, however, recipients are responsible for establishing DBE contract goals on individual DOT-assisted contracts. FTA recipients may use contract goals only on those DOT-assisted contracts that have subcontracting responsibilities. See 49 C.F.R. § 26.51(e). Furthermore, while FTA recipients are not required to set a contract goal on every DOT-assisted contract, they are responsible for achieving their overall program goals by administering their DBE program in good faith. FTA recipients and third-party contractors can obtain information about the DBE program at the following website locations:

<https://www.transit.dot.gov/dbe>

<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise>

Flow Down

The DBE contracting requirements flow down to all third-party contractors and their contracts at every tier. It is the recipient's and prime contractor's responsibility to ensure the DBE requirements are applied across the board to all sub recipients/contractors/subcontractors. Should a subcontractor fail to comply with the DBE regulations, FTA would look to the recipient to make sure it intervenes to monitor compliance. The onus for compliance is on the recipient.

Disadvantaged Business Enterprises

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is 0.48 %. **DBE participation is being sought for this procurement.**
- b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as PART deems appropriate. Each subcontract the contractor signs with

a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the PART. In addition, [the contractor may not hold retainage from its subcontractors.] [is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.] [is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the {insert agency name} and contractor's receipt of the partial retainage payment related to the subcontractor's work.]

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

15. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

FTA Circular 4220.1F

Flow Down

The incorporation of FTA terms has unlimited flow down.

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 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Piedmont Authority for Regional Transportation requests which would cause Piedmont Authority for Regional Transportation to be in violation of the FTA terms and conditions.

IN WITNESS WHEREOF, this supplement of FTA Clauses contained herein has been reviewed and upon signature are adhered to herein by such said contractor, a licensed contractor of the State of North Carolina, and the Contractor by and through a duly authorized representative, and is effective the date and year written below.

CONTRACTOR'S NAME: _____

CONTRACTOR'S ADDRESS: _____

SIGNATURE: _____

PRINTED NAME: _____

TITLE: _____

DATE: _____

ATTEST: _____

TITLE: _____

DATE: _____

16. RECYCLED PRODUCTS

42 U.S.C. § 6962

40 C.F.R. part 247

2 C.F.R. part § 200.322

Applicability to Contracts

The Resource Conservation and Recovery Act, as amended, (42 U.S.C. § 6962 *et seq.*), requires States and local governmental authorities to provide a competitive preference to products and services that conserve natural resources, protect the environment, and are energy efficient. Recipients are required to procure only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000.

Flow Down

These requirements extend to all third-party contractors and their contracts at every tier and sub recipients and their subcontracts at every tier where the value of an EPA designated item exceeds \$10,000.

Recovered Materials

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.

Signature Date

Printed Name Title

17. CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY and VOLUNTARY EXCLUSION
LOWER TIER COVERED TRANSACTION

(1) The prospective lower tier participant (Bidder/Contractor) certifies, by submission of this bid or proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) The prospective Bidder/Contractor also certifies by submission of this bid or proposal that all subcontractors and suppliers (this requirement flows down to all subcontracts at all levels) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(3) Where the prospective lower tier participant (Bidder/Contractor) is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this bid or proposal.

The lower tier participant (Bidder/Contractor), _____, certifies or affirms the truthfulness and accuracy of this statement of its certification and disclosure, if any.

DATE _____

SIGNATURE _____

COMPANY _____

NAME _____

TITLE _____

State of _____

County of _____

Subscribed and sworn to before me this ___ day of _____, 20__.

Notary Public _____

My Appointment Expires _____

18. STATE OF NORTH CAROLINA
AFFIDAVIT OF COMPLIANCE WITH N.C. E-VERIFY STATUTES

I, _____ (hereinafter the "Affiant"), duly authorized by and on behalf of _____ (hereinafter the "Employer") after being first duly sworn deposes and says as follows:

1. I am the _____ (President, Manager, CEO, etc.) of the Employer and possess the full authority to speak for and on behalf of the Employer identified above.
2. Employer understands that "E-Verify" means the federal E-Verify program operated by the United States Dept. of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law.
3. Employer employs 25 or more employees and is in compliance with the provisions of N.C. General Statute §64-26. Employer has verified the work authorization of its employees through E-Verify and shall retain the records of verification for a period of at least one year.

 Employer employs fewer than 25 Employees and is therefore not subject to the provisions of N.C. General Statute §64-26.
4. All subcontractors engaged by or to be engaged by Employer have or will have likewise complied with the provisions of N.C. General Statute §64-26.
5. Employer shall keep the State of North Carolina informed of any change in its status pursuant to Article 2 of Chapter 64 of the North Carolina Statutes.

This ____ day of _____, 20____.

Signature of Affiant

Printed Name and Title

State of _____

County of _____

Subscribed and sworn to before me this ____ day of _____, 20____.

Notary Public _____

My Appointment Expires _____

(SEAL)

19. BUY AMERICA REQUIREMENTS

49 U.S.C. 5323(j)

49 CFR Part 661 or updated

Applicability to Contracts

The Buy America requirements apply to the following types of contracts: Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than \$150,000).

Flow Down

The Buy America requirements flow down from FTA recipients and subrecipients to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance. The \$150,000 threshold applies only to the grantee contract, subcontracts under that amount are subject to Buy America.

Mandatory Clause/Language

The Buy America regulation, at 49 CFR 661.13, requires notification of the Buy America requirements in FTA-funded contracts, but does not specify the language to be used. The following language has been developed by FTA.

Buy America

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

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

CERTIFICATE OF COMPLIANCE WITH BUY AMERICA REQUIREMENTS

(To be submitted with all bids exceeding \$150,000. A bid, which does not include this certification, will not be eligible for award.)

The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 C.F.R. Part 661.

DATE _____

SIGNATURE _____

COMPANY _____

NAME _____

TITLE _____

State of _____

County of _____

Subscribed and sworn to before me this ____ day of _____, 20____.

Notary Public _____

My Appointment Expires _____

CERTIFICATE OF NON-COMPLIANCE WITH BUY AMERICA REQUIREMENTS

The bidder hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 5323(j), but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulation in 49 CFR Part 661.7.

DATE _____

SIGNATURE _____

COMPANY _____

NAME _____

TITLE _____

State of _____

County of _____

Subscribed and sworn to before me this ____ day of _____, 20____.

Notary Public _____

My Appointment Expires _____

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

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

DATE _____

SIGNATURE _____

COMPANY _____

NAME _____

TITLE _____

State of _____

County of _____

Subscribed and sworn to before me this ___ day of _____, 20__.

Notary Public _____

My Appointment Expires _____

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

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

DATE _____

SIGNATURE _____

COMPANY _____

NAME _____

TITLE _____

State of _____

County of _____

Subscribed and sworn to before me this ___ day of _____, 20__.

Notary Public _____

My Appointment Expires _____

20. LOBBYING

31 U.S.C. 1352

49 CFR Part 19

49 CFR Part 20

Applicability to Contracts

The Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts.

Flow Down

The Lobbying requirements mandate the maximum flow down, pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 C.F.R. Part 19, Appendix A, Section 7.

Mandatory Clause/Language

Clause and specific language therein are mandated by 49 CFR Part 19, Appendix A.

Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]

- Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

- Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A.

Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.

- Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

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

Certification Of Restrictions On Lobbying

(To be submitted with all bids or offers exceeding \$100,000; must be executed prior to Award)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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

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

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

Date _____

Signature of Contractor’s Authorized Official: _____

Name and Title of Contractors Authorized Official: _____

Subscribed and sworn to before me this ____ day of _____, 20____, in the State of _____; and the County of _____.

Notary Public: _____ My Appointment Expires: _____

Non-Collusion Affidavit

This affidavit is to be filled out and executed by the Proposer; if a corporation makes the bid, then by its properly executed agent. The name of the individual swearing to the affidavit should appear on the line marked "Name of Affiant." The affiant's capacity, when a partner or officer of a corporation, should be inserted on the line marked "Capacity." The representative of the Proposer should sign his or her individual name at the end, not a partnership or corporation name, and swear to this affidavit before a notary public, who must attach his or her seal.

<p>– State of _____, County of _____</p> <p>I, _____, being first duly sworn, do hereby state that (Name of Affiant)</p> <p>I am _____ of _____ (Capacity) (Name of Firm, Partnership or Corporation)</p> <p>whose business is _____</p> <p>and who resides at _____</p> <p>and that _____ (Give names of all persons, firms, or corporations interested in the bid)</p> <p>is/are the only person(s) with me in the profits of the herein contained Contract; that the Contract is made without any connection or interest in the profits thereof with any persons making any bid or Proposal for said Work; that the said Contract is on my part, in all respects, fair and without collusion or fraud, and also that no members of the PART Board of Trustees, head of any local department or bureau, or agency employee therein, or any employee of the RFP consortium members, is directly or indirectly interested therein.</p>	
<p>Signature of Affiant</p>	<p>Date</p>
<p>Sworn to before me this _____ day of _____, 20____.</p>	
<p>_____ Notary public My commission expires</p>	<p>Seal</p>