SMALL PURCHASE CONSTRUCTION TERMS AND CONDITIONS

These Small Purchase Construction Terms and Conditions are applicable to construction projects with an estimate of less than twenty-five thousand dollars ($25,000.00). Acceptance of this Contract is acceptance of these Terms and Conditions, which shall supersede and replace any and all terms and conditions offered by Contractor, without exception.

The Contract between the Greater Cleveland Regional Transit Authority ("GCRTA") and Contractor consists of, as applicable:

- the Agreement Between Owner and Contractor ("ABOC"); and
- these Small Purchase Construction Terms and Conditions; and
- technical specifications; and
- Contractor's Bid; and
- Drawings; and
- all documents required to be submitted to GCRTA; and
- the Disadvantaged Business Enterprise (DBE) Participation packet, including all attachments thereto; and
- insurance certificates and, if applicable, bond documentation; and
- all addenda issued prior to the bid submission deadline; and
- all contract modifications issued after execution of the Contract.

This Contract may be amended only by properly executed written change order. Should any part or parts of this agreement be held unenforceable by any competent judicial body, such determination shall not affect the remainder thereof and the balance of this agreement shall remain in full force and effect.

1. Contractor's Obligation. The general obligation of the Contractor shall be to transfer and deliver the goods and services specified in accordance with the terms, conditions, and specifications of the solicitation. Contractor agrees to provide said goods and/or services in conformity with all applicable Federal, State, and Local laws to which the Authority and the Contractor and their respective employees are subject.

2. GCRTA's Obligation. The general obligation of the GCRTA shall be to accept conforming delivery and conforming goods and services and to pay in accordance with the terms, conditions and specifications.

3. Indemnification. To the fullest extent permitted by law and to the full extent of Contractor's intentional, reckless or negligent acts or omissions, the Contractor shall, at its sole cost and expense, indemnify, defend, satisfy all judgments, and hold harmless GCRTA and its officials, agents, representatives, and employees from and against all claims, actions, judgments, costs, penalties, liabilities, damages, losses and expenses, including but not limited to attorney's fees and worker's compensation benefits, for Contractor's intentional, reckless or negligent acts or omissions arising out of or resulting from the subject matter of this Agreement, or the acts or omissions of any person or contracted entity directly or indirectly employed or contracted by Contractor.

In the event of negligence or intentional acts or omissions by more than one entity, responsibility for such negligence or intentional acts or omissions will be allocated in accordance with the proportionate share of such entity(ies)' negligence or intentional acts or omissions. Nothing herein shall be construed as making Contractor liable for any claims, actions, judgments, costs, penalties, liabilities, damages or losses and expenses caused by the sole negligence and/or misconduct of GCRTA.

To the extent that any portion of this provision is found to be in violation of any applicable law, said portion(s) of this provision are stricken but all remaining portions of this provision shall remain in full force and effect.

4. Patents. Contractor shall pay all royalties and license fees attributable to the use of goods, materials, equipment or processes used to perform its obligations hereunder and, if it cannot timely secure the right for GCRTA to use them, it shall provide GCRTA equivalent non-infringing replacements at no additional cost to GCRTA. Contractor agrees to defend and hold harmless the GCRTA from and against all claims of infringement.

5. Warranties. Contractor warrants that for a period of one (1) year (or for such longer period as prescribed by the specifications or commercially offered by the manufacturer or Contractor) following first use of the goods and services delivered hereunder, the goods and services are free of defects in materials and workmanship and further warrants that such goods and services are suited for the particular purpose(s) intended and are of merchantable quality. Contractor further warrants that it holds good and marketable title in the goods delivered, and that such goods are free of all liens, security interests or other encumbrances. Contractor agrees that in the event the goods or services are not as warranted, it will promptly cure the defect at Contractor's sole cost and expense. Contractor further agrees to indemnify GCRTA for all costs and damages, both incidental and consequential, resulting from the delivery of goods and services that fail to meet the aforesaid warranties. It is agreed that the goods and services provided hereunder are regarded as consumer goods and services.

6. Delivery. Contractor shall tender delivery in the manner and at the place and time specified in the solicitation. All deliveries are to be F.O.B. destination, or as otherwise designated on the bid form by GCRTA. It is agreed that the bid prices include freight.

7. Inspection. The GCRTA reserves the right and shall be at liberty to inspect all materials and workmanship to determine whether they conform to the specifications provided. However, the GCRTA is under no duty to make such inspection. Whether or not GCRTA conducts an inspection, no such inspection shall relieve Contractor of any obligation to furnish materials and workmanship strictly in accordance with the specifications. GCRTA will receive conforming deliveries for purposes of inspection. Acceptance of goods and services will not occur until after inspection or until a reasonable time for inspection has elapsed. The risk of loss shall remain with Contractor until acceptance.

GCRTA may test deliveries before or after acceptance for conformance with the specifications. Such tests may be performed by independent laboratories. Where test results indicate non-conforming goods the delivery and the goods will be rejected and the cost of the test charged to Contractor. Where acceptance has preceded testing, acceptance is deemed conditional and subject to revocation. GCRTA may reject goods and services and revoke its acceptance without testing.

8. Payment. GCRTA shall be entitled to any and all discounts stated on the face hereof. Payments will be made against approved invoices generally within thirty (30) days of receipt of invoice. Late payments will accrue no interest. Payment will only be made for goods and services accepted. For goods and services accepted, when acceptance is later revoked prior to payment, payment will be withheld until defects in the nonconforming goods or services are cured and accepted. In the case of serial deliveries and serial invoicing, GCRTA reserves the right to deduct overpayments from current invoice amounts. Payment does not constitute acceptance, nor does it serve to waive a later revocation of acceptance.

All invoices submitted to GCRTA for payment shall include the contract number. Invoices shall be payable at Cleveland, Ohio and mailed to: Accounts Payable, Greater Cleveland Regional Transit Authority, 1240 West 6th Street, Cleveland, Ohio 44113-1331.

The GCRTA is exempt from all sales, excise and transportation taxes, except State of Ohio gasoline tax. The price or prices bid, whether a unit price, lump sum price, lot price or a trade discount from catalog list prices shall be exclusive of all such taxes and will be so construed.

The Contractor agrees to pay each subcontractor under this Contract for satisfactory performance of its subcontract no later than ten (10) calendar days from receipt of each payment the Contractor receives

from the Authority. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval from the Contracting Officer.

9. Assignment. The Contractor shall not assign, transfer, convey, sublet or otherwise dispose of the Contract or its right, title or interest in or to the same or any part thereof without prior written consent of the GCRTA endorsed thereon or attached thereto, and any such attempt at assignment shall be void.

10. Compliance with Laws and Regulations. All materials and supplies furnished pursuant to the specifications shall be in compliance with the laws and regulations of the United States and State of Ohio. Contractor shall, if requested by the GCRTA, supply certification and evidence of such compliance. The Contract shall be construed pursuant to the laws of the State of Ohio. This Contract may be supported in part by Federal assistance under grants made by the Department of Transportation, Federal Transit Administration, pursuant to the Urban Mass Transportation Administration Act of 1964 and amendments (49 U.S.C. 1601 et seq.) and Surface Transportation Assistance Acts of 1982 and 1987. When so funded this Contract shall be subject to all rules and regulations promulgated pursuant thereto.

11. Termination. The GCRTA may, by written notice to the Contractor, terminate the whole or any part of this Contract.

12. Termination for Default. GCRTA may terminate this Contract for default, if within ten (10) days after receiving notice from the GCRTA, Contractor fails to make delivery of conforming goods or to perform the services as required within the time specified herein or any extension thereof; or if the Contractor fails to perform any of the other provisions of this Contract, or so fails to make progress so as to endanger performance of this Contract in accordance with its terms. Thereafter, the GCRTA may have the work completed and the Contractor shall be liable for any resulting cost to the GCRTA.

13. Termination for Convenience. GCRTA may terminate performance of work under this Contract in whole or in part for its convenience for any reason or for no reason at all without obligation to Contractor other than for Contractor's prior performance. GCRTA requires Contractor to perform prior to the date GCRTA gives notice of such termination to Contractor.

14. Non-Discrimination and Accessibility. Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age or disability in accordance with the following Federal Statutes and regulations, and any other implementing regulations issued pursuant to the: Civil Rights Act as amended, Titles VI (42 U.S.C. 2000d) and VII (42 U.S.C. 2000e); Age Discrimination Act of 1975, as amended (42 U.S.C. 6102); Age Discrimination in Employment Act of 1967 as amended, (29 U.S.C. 623) and implementing regulations (45 C.F.R. Part 90 and 29 C.F.R. Part 1625); Americans with Disabilities Act of 1990, as amended, (42 U.S.C. 12101 et seq.) and implementing regulations (29 C.F.R. Part 1630), Federal transit law (49 U.S.C. 5332). The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by the Federal Transit Administration.

Contractor acknowledges that all facilities, including but not limited to buildings and rolling stock, to be used in public transportation service must comply with the Americans with Disabilities Act. 42 U.S.C. § 12101 et seq; Appendix A of 49 C.F.R. Part 37.

15. Wage and Hour. If the cost of this Contract, including all change orders, exceeds one hundred thousand dollars ($100,000.00) all contractors and subcontractors must compute wages based on a standard workweek of 40 hours, and work in excess of 40 hours must be paid at a rate not less than one and one-half times the basic rate of pay in compliance with 40 U.S.C. 3701 et seq. and 29 C.F.R. Part 5. Compliance is required of all contractors and subcontractors.

16. Hazardous Materials. Where the goods or services procured involve the delivery or use of hazardous materials through the City of Cleveland, Contractor agrees to meet the requirements of any applicable local, state, or federal regulations including but not limited to the Cleveland Codified Ordinances.

17. Environmental Indemnity. Contractor agrees to indemnify and defend GCRTA for any liability resulting from Contractor's failure to abide by any and all applicable environmental regulations, state or federal, resulting from Contractor's performance under this contract.

18. Right to Audit. Contractor shall maintain books, records, documents, and other evidence directly pertinent to the performance of the Work under this Contract in accordance with generally accepted accounting principles and practices consistently applied and Federal Acquisition Regulations, Parts 30 and 31, as applicable. GCRTA and its authorized representatives shall have the right to audit, to examine and to make copies of or extracts from all financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to this Contract kept by or under the control of the Contractor, including, but not limited to those kept by the Contractor, its employees, agents, assigns, successors and subcontractors. Such records shall include, but not be limited to, accounting records, written policies and procedures; subcontract files; all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices; ledgers; cancelled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; back charge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence. Contractor shall, at all times during the term of this Contract and for a period of three years after the completion of this Contract, maintain such records, together with such supporting or underlying documents and materials. The Contractor shall at any time requested by GCRTA, whether during or after completion of this Contract, and at Contractor's own expense make such records available for inspection and audit (including copies and extracts of records as required) by GCRTA. Such records shall be made available to GCRTA during normal business hours at the Contractor's office or place of business. In the event that no such location is available, then the financial records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location that is convenient for GCRTA. Contractor shall ensure GCRTA has these rights with Contractor's employees, agents, assigns, successors, and subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Contractor and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the Contractor's obligations to GCRTA. If the audit discovers substantive findings related to fraud, misrepresentation, or non-performance, GCRTA may recoup the costs of the audit work from the Contractor. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the Contractor's invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of GCRTA's findings to Contractor. 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.

19. Disputes. If there is a dispute or claim regarding the Contract, Contractor should notify the GCRTA Director of Procurement or GCRTA's General Counsel.

20. Governing Law/Venue. This Contract shall be governed by and interpreted pursuant to the laws of the United States, the State of Ohio, and the Courts of Cuyahoga County, as appropriate, notwithstanding any provisions or such law relating to jurisdiction. Should any part or parts of this Contract be held unenforceable by any court of competent jurisdiction, such determination shall not affect the remainder thereof and the balance shall remain in full force and effect.

21. Reporting of Improper Acts. If Contractor suspects or has knowledge of unethical, improper and/or fraudulent acts by GCRTA personnel, including, but not limited to, conflicts of interest, bribery, fraud, waste, abuse, extortion, and kickbacks, the Contractor shall contact the GCRTA Executive Director of Internal Audit on the GCRTA Fraud Hotline (216-350-5130).

22. Documents and Records (Paper and Electronic). Documents and records, including electronic records, created and maintained by the Contractor under this Contract may be subject to the Ohio Public Records Act, Ohio Rev. Code § 149.43 *et seq*. The Contractor shall maintain all documents and records related to this Contract, including electronic records, for seven (7) years.

To the extent that the Contractor becomes aware of actual or potential litigation related to this Contract, the Contractor shall immediately notify the Authority's Deputy General Manager for Legal Affairs. The Contractor shall preserve any and all records, including electronic records, created or maintained under this contract until advised by the GCRTA Legal Department, in writing, that they are no longer needed. Any suspension issued under this paragraph shall supersede any previously or subsequently established destruction schedule for such records.

23. Bonding. Unless advised otherwise by GCRTA, Contractor will be required to provide the following:

(a) Bid Guarantee – equivalent to ten percent (10%) of the bid price if provided by cashier's check or money order; or 100% of the contract amount if provided by bid bond.
(b) Performance Bond – in the amount of one hundred percent (100%) of the contract price.

24. Insurance. The Contractor shall purchase and maintain from the date of commencement of the work until the date of final payment the following minimum insurance coverages. Such insurance shall protect the contractor from claims which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a subcontractor or by anyone employed directly or indirectly by any of them, or by anyone for whose acts any of them may be liable**.**

Approval by the GCRTA: Approval of the insurance by the GCRTA shall not relieve or decrease the liability of the Contractor hereunder. It is to be understood that the GCRTA does not in any way represent that the insurance or the limits of insurance specified herein are sufficient or adequate to protect the Contractor's interests or liabilities**.**

In the event the Contractor neglects, refuses or fails to provide the insurance required under the contract documents, or if such insurance is cancelled for any reason, the owner shall have right but not the duty to procure the same, and costs thereof shall be deducted from monies then due or thereafter to become due to the Contractor.

GCRTA reserves the right to request a copy of all policies and endorsements prescribed herein.

a. Commercial General Liability (CGL) Insurance in the amount of $1,000,000 combined single limit each occurrence for bodily injury and/or property damage and with a $1,000,000 annual aggregate.

b. Business Automobile Liability (BAL) Insurance in the amount of $1,000,000.00 combined single limit each accident for bodily injury and/or property damage. Said policy shall apply to all owned, leased, hired and non-owned vehicles used in connection with the work.

c. Statutory Workers' Compensation Coverage in compliance with all applicable state workers' compensation laws to cover all employees furnishing labor under the terms of this contract and under the control of the Contractor. Employers' Liability coverage in the amount of $1,000,000 per accident / $1,000,000 per employee for disease will also be included, either under the Workers' Compensation policy or under the Commercial General Liability policy (Stop Gap) referenced under a. above. In Ohio, a copy of a certificate of premium payment from the Industrial commission and Bureau of Workers Compensation, or a copy of the Certificate of Employer's Right to Pay Compensation Directly.

d. *If the Contract involves the provision of any professional services to GCRTA (e.g., design, professional consulting/analysis or receipt of confidential or personally identifiable information (PII)):* **Professional Liability / Errors & Omissions Insurance** in the amount of $1 million per claim. The definition of wrongful acts must be applicable to the work performed hereunder.

- If the Contract involves receipt of personally identifiable information (PII) or other confidential information, Contractor's professional liability insurance must include cyber risk coverage, including network and internet security liability coverage, privacy liability coverage, and media coverage.

e. ***If the Contract involves work within 50 feet of the GCRTA (or any other Railroad) tracks:*** **Railroad Protective Liability Insurance** naming GCRTA (or the other railroad, as applicable) as an insured and having limits of no less than $2 million per occurrence and $6 million in the aggregate to cover bodily injury liability, property damage liability and physical damage to property. In addition, when this insurance is required, there must also be an endorsement to the Commercial General Liability Insurance Policy which amends the definition of an Insured Contract by deleting the exclusion for work within 50 ft. of a railroad.

Alternative to Railroad Protective Liability Insurance: If Contractor receives express permission from the Contract Administrator, the Contractor may address this exposure by an endorsement to its commercial general liability policy *if it is not in the construction business per se or if it does not customarily work in proximity of a railroad right-of-way.* The applicable endorsement is CG 24 17 – Contractual Liability – Railroads. A copy of the endorsement must be attached to the required Certificate of Insurance.

f. ***If the Contract involves construction work on or around real property:*** **Property Insurance** written on a builder's "all-risk" or equivalent policy form in the amount of the initial Contract sum, plus the value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis. The maximum acceptable deductible on this policy shall be $50,000.

Alternative: If the Contract is limited to installation on real property, GCRTA may accept an Installation Floater equal to the amount of the Contract.

g. ***If the Contract could result in fumes, hazardous materials or other potential pollutant or if the Contract involves Construction which could cause ground or air pollution:*** **Contractor's Pollution Liability Insurance** for bodily injury and property damage coverage with a combined single limit for bodily injury and property damage of $1,000,000.00. This insurance shall include coverage for, but not be limited to, sudden and accidental discharges, gradual discharges, clean-up of pollutants and disposal thereof, as well as mold, asbestos and/or lead in an abatement contract. The policy must be maintained for a period of 2 years from contract completion, or the Contractor may satisfy this requirement with the purchase of a 2-year extended reporting period.

General Requirements: The Contractor shall not commence work herein until it has obtained the required insurance and has received written approval of such insurance by the GCRTA. ***Contractor shall furnish evidence of such insurance in the form of a certificate (Acord or similar form).***

GCRTA will accept any combination of primary CGL along with Excess or Umbrella policies, as well as primary BAL along with Excess or Umbrella, to meet the minimum coverage requirements contained herein.

The certificate shall provide the following:

- The policy shall be written on an occurrence basis. If any insurance specified above is written on an "Claims Made" (rather than an "occurrence" basis), then, in addition, to the coverage requirements stated herein, Contractor shall:

  (a) Ensure that the Retroactive Date is shown on the policy, and such date shall be before the date of the Contractor or any work beginning under the contract.

(b) Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and

(c) If insurance is cancelled or non-renewed and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, Contractor shall purchase "extended reporting" coverage for a minimum of three (3) years after completion of the work.

- Name the GCRTA as an additional insured for all CGL, BAL, and, if applicable, CPL liability coverage for claims arising out of operations in conjunction with the contract
- Contain a waiver of subrogation in favor of the GCRTA.
- Specify that the insurance is primary and non-contributory as respects any insurance or self-insurance programs maintained by GCRTA.
- Contain a specific reference to the subject contract.
- Specify all deductibles & Self-Insured Retentions (SIR), as applicable.
- In the event the insurance should be changed or cancelled, such change or cancellation shall not be effective until 15 days after the GCRTA has received written notice of such change or cancellation from the Contractor. Such notice shall be mailed by certified mail, return receipt requested, to the GCRTA's Director of Procurement.
- An insurance company having less than an A-X rating by The A. M. Best Company will not be considered acceptable. All certificates are subject to acceptance by the GCRTA. The GCRTA shall be entitled to receive a full copy of the insurance policy(ies) upon request and reserves the right to review financial statements and approve any deductibles or SIR.

25. Telecommunication and Surveillance Equipment or Services: Contractor, on behalf of itself as well as its subcontractors and suppliers, hereby certifies that the goods and/or services provided under this Contract are in conformity with 2 CFR 200.216 "Covered Telecommunications Equipment or Services" and that no portion of the goods or services under this Contract will be provided or produced by Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, Dahua Technology Company, any of their subsidiaries or affiliates, or any other entity owned, controlled, or connected to the government of a covered foreign country**.**

26. Federally Funded Contracts. For special federal requirements related to construction contracts funded with federal grant dollars, see Special Federal Terms & Conditions.

END OF GENERAL TERMS AND CONDITIONS

SPECIAL FEDERAL TERMS & CONDITIONS

1. Federal Funding Assistance & Required Provisions Deemed Inserted. This Contract may be subject to one or more financial assistance contracts between GCRTA and the US Department of Transportation, Federal Transit Administration (FTA), which incorporate the current FTA Master Agreement and Circular 4220.1F (as may be amended). Contractor is required to comply with all terms and conditions prescribed for third party contracts in these documents. Federal laws, regulations, policies, and administrative practices may be modified or codified after the date this Contract is established and may apply to this Contract. To ensure compliance with changing federal requirements, Contractor acknowledges and agrees to accept all changed requirements that apply to this Contract.

The federal government is not a party to this Contract and shall not be subject to any obligations or liabilities therefrom.

Each and every clause required by federal or state statute or regulation to be inserted into this Contract is deemed to be inserted herein and this Contract shall be read and enforced as though it were included herein. If through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Agreement shall forthwith be amended to make such insertion or correction.

2. Prevailing Wage. For contracts over two thousand dollars ($2,000.00), Davis-Bacon Act (40 U.S.C. 3141 et seq.), 49 USC 5333, and 29 C.F.R. Part 5 prevailing wage protections apply to laborers and mechanics. Award of any contract with GCRTA or subcontract is conditioned upon acceptance and approval that any Contractor or subcontractor has met the DOL prevailing wage determination.

3. Anti-Kickback. Contractor must comply with provisions of the Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 3145) and implementing regulations (29 C.F.R. Part 3). Contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he/she is otherwise entitled.

4. Mitigation of Adverse Environmental Effects and Energy Conservation. Contractor agrees to comply with 49 U.S.C. § 303. Contractor further agrees to comply with the requirements of Section 6002 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 C.F.R. Part 247, as they apply to the subject matter of this Contract and where applicable purchases exceed ten thousand dollars ($10,000.00).Contractor further agrees to comply with applicable mandatory energy efficiency standards and policies of applicable state energy conservation plans issued pursuant to 42 U.S.C. 6321 et seq and 49 C.F.R. Part 622.

5. Clean Air Act and Clean Water Act. Where the price of this procurement, including all change orders, exceeds one hundred and fifty thousand dollars ($150,000.00), Contractor agrees to comply with the requirements of the *Clean Water Act* and the *Clean Air Act*, 33 U.S.C. 1251 et seq. and 42 U.S.C. 7401 et seq., respectively. Contractor agrees to report and require each subcontractor at any tier to report any violation of these requirements resulting from any implementation activity to FTA and the appropriate U.S. EPA Regional Office.

6. Buy America. For contracts exceeding $150,000, Contractor acknowledges and agrees that it will perform the Services under this Contract in accordance with the “Buy America” requirements found in 49 C.F.R. Part 661, 49 U.S.C. 5323(j), and the Build America, Buy America Act, Pub. L. 117-58, div. G. tit. IX §§ 70911-70927 (2021). Additionally, Contractor shall ensure that any and all drawings and specifications submitted as part of the Services provided under this Contract comply with Buy America.

7. Fly America. Contractor acknowledges that to the extent this Contract is federally funded, GCRTA will not participate in the costs of international air transportation of any persons involved in or property acquired for work under this Contract, unless such air transportation is provided by U.S. flag air carriers if available,

in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118), as amended, and implementing regulations.

8. National Environmental Policy Act (NEPA). Contractor will comply with all federal laws, regulations, and requirements including but not limited to 42 U.S.C. §§ 4321, et seq, as limited by 42 U.S.C. § 5159, 40 CFR Part 1500-1508, 23 CFR Part 771, 49 CFR Part 622, Executive Order No. 11514, 35 Fed. Reg. 4247.

9. Seismic Safety. Contractor agrees to comply with Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. § 7701, et seq. Construction of new buildings or additions to existing buildings must be constructed in accordance with DOT regulations on Seismic Safety, 49 C.F.R. Part 41.117.

10. Covenant Against Contingent Fees and Gratuities. For contracts over $250,000, the Contractor warrants that no person or selling agencies has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission or bonafide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Authority shall have the right to annul this Contract without liability or at its discretion, to deduct from the Contract price, or otherwise recover the full amount or such commission, percentage, brokerage, or contingent fees. Contractor further warrants that it, its agent, and/or its subcontractor, have not and will not accept a gratuity in relation to this agreement.

11. Program Fraud and Federal Reporting. Contractor agrees that:

a. Civil Fraud. The Program Fraud Civil Remedies Act of 1986, as amended, and 49 C.F.R. 31, Program Fraud Civil Remedies, apply to the Contractor's activities in connection with the Project. By executing the Contract, the Contractor certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project. In addition to other penalties that may apply, the Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the federal government, the federal government reserves the right to impose on the Contractor the penalties of 31 USC 3801 et seq., as implemented in 49 C.F.R. 31, to the extent the federal government deems appropriate; and

b. Criminal Fraud. If the Contractor makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the federal government or includes a false, fictitious, or fraudulent statement or representation in any agreement with the federal government in connection with a project authorized under 49 USC Chapter 53 or any other federal law, the federal government reserves the right to impose on the Contractor the penalties of 49 USC 5323(l), 18 USC 1001, or other applicable federal law to the extent the federal government deems appropriate.

c. If the Contractor has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA, Contractor shall promptly notify the US DOT Inspector General, in addition to the FTA Chief Counsel or Regional Counsel for Region V. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between GCRTA and FTA. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Contractor. In this paragraph, "promptly" means to refer information without delay and without change.

12. Shipments. Should equipment, materials or commodities provided hereunder be transported by ocean vessel, Contractor shall comply with the requirements of 46 U.S.C. 55305 and 46 C.F.R. Part 381 regarding the use of privately owned U.S. Flag commercial vessels and ensure all applicable subcontracts contain the same requirements. Should equipment, materials or commodities provided hereunder be transported by air carrier, Contractor shall comply with 49 U.S.C. 40118 and implementing regulations 41 C.F.R. Part 301-10 and 49 C.F.R. Part 47.4.

13. Safe Operation of Motor Vehicles. The Contractor acknowledges and agrees that (1) pursuant to Federal Executive Order No. 13043, Contractor is encouraged to adopt and promote on-the-job seat belt use for its employees and other personnel operating vehicles involved in the project, and (2) pursuant to Federal Executive Order No. 13513 and U.S. DOT Order 3902.10, Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while driving.

14. Fair Labor Standards and Trafficking in Persons. Contractor agrees to comply with the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, et seq. Contractor agrees that it will comply with 22 U.S.C. § 7104(g).

15. Participation by Disadvantaged Business Enterprises (DBEs). Contractor agrees that it must carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of federally funded contracts and require the same compliance of all subcontractors. 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 GCRTA deem appropriate, including, but not limited to:

a) Withholding monthly progress payments; and/or
b) Assessing sanctions; and/or
c) Liquidated damages; and/or
d) Disqualifying Contractor from future bidding, as non-responsible.

Contractor further agrees to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the recipient makes to the prime Contractor. For contracts with defined DBE contract goals, Contractor agrees to utilize the specific DBEs listed unless Contractor obtains the GCRTA's written consent; and that, unless GCRTA's consent is provided, Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

16. Veterans Preference. Pursuant to 49 USC 5325(k), Contractor and any subcontractors shall give a hiring preference as defined under 5 U.S.C. 2108, to the extent practicable, to veterans who have the requisite skills and abilities to perform the construction work required under the contract. This provision does not require the contractor to give 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 former employee.

17. Debarment & Suspension. For any transaction of $25,000 and above, Contractor must disclose to GCRTA any debarment, suspension, and/or exclusion from the System for Award Management. Contractor must also ensure any transaction of twenty-five thousand dollars ($25,000) and above at any tier contains provisions requiring compliance with federal debarment and suspension requirements.