

The provisions of this Exhibit C are required because this Contract is funded in whole or in part by the United States Department of Transportation (USDOT), Federal Transit Administration. The requirements in this Exhibit are in addition to and, unless inconsistent and irreconcilable, do not supplant requirements found elsewhere in this Contract. If any requirement of this Exhibit is inconsistent with a provision found elsewhere in this Contract and is irreconcilable with such provision, the requirement in this Exhibit shall prevail.

ARTICLE FTA-1. DEFINITIONS

- 1.1 **C.F.R.** : The acronym referring to the United States Code of Federal Regulations, which contains regulations applicable to FTA grant recipients and their contractors and subcontractors.
- 1.2 **DOT** : The acronym referring to the United States Department of Transportation. Also represented as USDOT.
- 1.3 **EPA** : The acronym referring to the United States Environmental Protection Agency. Also represented as USEPA.
- 1.4 **FTA** : The acronym referring to the Federal Transit Administration, a public transit regulatory unit of the USDOT, formerly known as the Urban Mass Transit Administration.
- 1.5 **U.S.C.** : The acronym referring to the United States Code.

ARTICLE FTA-2. ACCESS TO RECORDS, ACCESS TO CONSTRUCTION SITE, AND MAINTENANCE OF RECORDS

- 2.1 **Access to Records.** The CONTRACTOR agrees to provide sufficient access to FTA and its contractors to examine, inspect, and audit records and information related to performance of this Contract as reasonably may be required.

In accordance with 49 U.S.C. section 5325(g), CONTRACTOR agrees to provide the Council, the Secretary of Transportation, the FTA Administrator, the Comptroller General of the United States, and any of their authorized representatives access to any books, documents, papers, and records of CONTRACTOR which are directly pertinent to this Contract for the purposes of making audits, examinations, inspections, excerpts, and transcriptions.

CONTRACTOR also agrees, pursuant to 49 C.F.R. section 633.15, to provide the FTA Administrator or the Administrator's authorized representatives, including any project management oversight ("PMO") contractor, access to CONTRACTOR's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. section 5302(a)(1), which is receiving federal financial assistance through the programs described at 49 U.S.C. sections 5307, 5309, or 5311.

- 2.2 **Access to the Sites of Performance.** CONTRACTOR agrees to permit FTA and its contractors access to the sites of performance under this Contract as may reasonably may be required.
- 2.3 **Reproduction of Documents.** The Contractor will retain, and will require its subcontractors at all tiers to retain, complete and readily accessible records related in whole or in part to this Agreement, 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.
- 2.4 **Retention Period.** The CONTRACTOR agrees to comply with the record retention requirements in accordance with 2 C.F.R section 200.333. CONTRACTOR shall maintain all books, records, accounts, and reports required under this Contract for a period of not less than 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.

The expiration or termination of this Contract does not alter the record retention or access requirements of this Section.

ARTICLE FTA-3. RESERVED

ARTICLE FTA-4. CARGO PREFERENCE

4.1 *Reserved.*

4.2 ***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 C.F.R. 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 FTA-4.2 in all subcontracts that may involve international air transportation.

ARTICLE FTA-5. RESERVED

ARTICLE FTA-6. DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION

6.1 The CONTRACTOR agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200 during the term of this Contract. By signing this Contract, the CONTRACTOR certifies that neither it nor its principals, affiliates, or subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded, or disqualified from participation in this Contract by any Federal department or agency. This certification is a material representation of fact upon which the COUNCIL relies in entering this Contract. If it is later determined that the CONTRACTOR knowingly rendered an erroneous certification, in addition to other remedies available to the COUNCIL, the Federal Government may pursue available remedies, including suspension and/or debarment. The CONTRACTOR shall provide to the COUNCIL immediate written notice if at any time the CONTRACTOR learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. The CONTRACTOR will include a provision requiring such compliance in its lower tier covered transactions.

ARTICLE FTA-7. ENVIRONMENTAL STANDARDS AND PRACTICES

7.1 ***Clean Water Act.*** For any project of \$150,000 or more, 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. sections 1251-1387. The CONTRACTOR agrees to report each violation to the COUNCIL and understands and agrees that the COUNCIL will, in turn, report each violation as required to assure notification to FTA and the appropriate Environmental Protection Agency (“EPA”) Regional Office. The CONTRACTOR also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

- 7.2 Clean Air Act Compliance.** For any project of \$150,000 or more, 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. sections 7401-7671q. The CONTRACTOR agrees to report each violation to COUNCIL and understands and agrees that COUNCIL will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The CONTRACTOR also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.
- 7.3 Energy Conservation.** 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 federal Energy Policy and Conservation Act.
- 7.4 Reserved.**

ARTICLE FTA-8. LOBBYING RESTRICTIONS

For any project of \$100,000 or more, the CONTRACTOR is required to make the following certifications. The CONTRACTOR must also require its contractors or subcontractors to make the following certification in any contracts or subcontracts valued at or above \$100,000.

- 8.1 Certification of Restrictions on Lobbying; Disclosure.** The CONTRACTOR certifies, to the best of its knowledge and belief, that no Federal appropriated funds have been paid or will be paid by or on behalf of the CONTRACTOR 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.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The CONTRACTOR 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 COUNCIL has relied to enter this Contract. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. section 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.

By its signature on this Contract, the CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, CONTRACTOR understands and agrees that the provisions of 31 U.S.C. Section 3801, *et seq.*, apply to this certification and disclosure, if any.

ARTICLE FTA-9. RESERVED

ARTICLE FTA-10. NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS

ARCHITECTURE AND STANDARDS

- 10.1 **National Intelligent Transportation Systems Architecture and Standards.** To the extent applicable, the CONTRACTOR agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by section 5206(e) of TEA-21, 23 U.S.C. section 502 note, and to comply with FTA Notice, "FTA National ITS Architecture Policy on Transit Projects" 66 Fed. Reg. 1455 et seq., January 8, 2001, and other Federal requirements that may be issued.

ARTICLE FTA-11. Program Fraud and False or Fraudulent Statements or Related Acts

- 11.1 **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. section 3801 *et seq.*, and USDOT regulations, "*Program Fraud Civil Remedies*," 49 C.F.R. part 31, apply to its actions pertaining to this Contract. Upon execution of this 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 this Contract or the FTA-assisted project for which this 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 Federal Government reserves the right to impose the penalties of 18 U.S.C. section 1001 and 49 U.S.C. section 5323(l) on the CONTRACTOR, to the extent the Federal Government deems appropriate.

The CONTRACTOR agrees to include the above language in each subcontract under this Contract, modified only to identify the subcontractor that will be subject to the provisions.

ARTICLE FTA-12. CIVIL RIGHTS

Under this Contract, the CONTRACTOR shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part hereof .

12.1 **Nondiscrimination.**

12.1.1 **Nondiscrimination in Employment.** In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex (including gender identity), age, or disability. In addition, the CONTRACTOR agrees to comply with applicable federal implementing regulations and other implementing requirements FTA may issue.

12.1.2 **Nondiscrimination in Contracting.** The CONTRACTOR agrees and assures that it will abide by the following conditions, and that it will include the following assurance in every subagreement and third-party contract it signs: (1) The CONTRACTOR must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, or third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 C.F.R. part 26; and (2) the CONTRACTOR must take all necessary

and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted subagreements, third party contracts, and third party subcontracts, as applicable.

12.2 Equal Employment Opportunity. The following equal employment opportunity requirements apply to this Contract:

12.2.1 **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. section 200e *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. section 2000e note, as further amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. section 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, 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.

12.2.2 **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. sections 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. section 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. section 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.

12.2.3 **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. section 794, the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. section 4151 *et seq.*, and Federal transit law at 49 U.S.C. section 5332, the CONTRACTOR agrees that it will not discriminate against individuals on the basis of disability. In addition, the CONTRACTOR agrees to comply with the requirements of U.S. Equal Employment Opportunity commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. part 1630, and any implementing requirements FTA may issue. The Contractor will also ensure that accessible facilities (including vehicles and buildings) and services are made available to individuals with disabilities in accordance with the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. section 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. section 4151 *et seq.*, and any applicable implementing regulations.

12.3 Inclusion in Subcontracts. The CONTRACTOR agrees to include the requirements of this article FTA-12 in each subcontract under this Contract, modified only to identify the subcontractor that will be subject to the provisions.

ARTICLE FTA-13. GENERAL PROVISIONS

13.1 Federal Changes. The CONTRACTOR shall comply with the required FTA clauses set forth in this Contract and with all applicable FTA regulations, policies, procedures and directives including, without limitation, those listed directly or by reference in the agreement between the COUNCIL and FTA. The CONTRACTOR's failure to comply with applicable FTA regulations, policies, procedures, and directives, as they may be amended or promulgated from time to time during the term of this Contract, shall constitute a material breach of this Contract.

13.2 No Obligation by the Federal Government. The COUNCIL and CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this 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 COUNCIL, CONTRACTOR, or any other party (whether or not a party to the Contract) pertaining to any matter resulting from this Contract.

The CONTRACTOR agrees to include the preceding clause in each subcontract under this Contract, modified only to identify the subcontractor that will be subject to the provisions.

13.3 Incorporation of FTA Terms. Specific provisions in this Contract include, in part, certain Standard Terms and Conditions required by USDOT, whether or not expressly set forth in the contract provisions. All contractual provisions required by USDOT, as set forth in the most recent addition and any revisions of FTA Circular 4220.1 "Third Party Contracting Guidance," to the extent consistent with applicable federal laws, and in Appendix II of 2 C.F.R. part 200 are hereby incorporated by reference. Notwithstanding anything to the contrary in this Contract, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any COUNCIL requests which would cause the COUNCIL to be in violation of the FTA terms and conditions.

ARTICLE FTA-14. DISADVANTAGED BUSINESS ENTERPRISE (DBE) – WITH GOAL (CA Select Appropriate Article 14)

14.1 Nondiscrimination. Pursuant to 49 CFR part 26, the CONTRACTOR, sub-recipient or subcontractor 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 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the CONTRACTOR to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contractor such other remedy as the COUNCIL deems appropriate. The CONTRACTOR shall include this requirement in all subcontracts pursuant to this Contract.

14.2 Prompt Payment.

14.2.1 Reserved.

14.2.2 The CONTRACTOR agrees to pay subcontractors within ten (10) calendar days of the CONTRACTOR's receipt of payment from the COUNCIL for undisputed services provided by the subcontractor. The CONTRACTOR agrees to pay subcontractors all undisputed retainage payments within ten (10) calendar days of completion of the work, regardless of whether the CONTRACTOR has received any retainage payment from the COUNCIL. The CONTRACTOR shall not postpone or delay any undisputed payments owed subcontractors without good cause and without prior written consent of the COUNCIL.

14.2.3 The CONTRACTOR shall not, by reason of said payments, be relieved from responsibility for Work done by the subcontractor and shall be responsible for the entire Work under this Contract until the same is finally accepted by the COUNCIL.

- 14.2.4 The CONTRACTOR agrees to include in all subcontracts a provision requiring the use of appropriate alternative dispute resolution mechanisms to resolve payment disputes.
- 14.2.5 The CONTRACTOR will not be reimbursed for work performed by subcontractors unless and until the CONTRACTOR ensures that subcontractors are promptly paid for work they have performed. Failure to comply with the provisions of this section FTA-14.2 may result in the COUNCIL finding CONTRACTOR in noncompliance with the DBE provisions of this Contract.

14.3 DBE Good Faith Efforts During the term of this Contract, the CONTRACTOR will continue to make good faith efforts to ensure that DBEs have maximum opportunity to successfully perform under the contract, and that the CONTRACTOR meets its DBE commitment as set forth in its proposal. These efforts shall include, without limitation, the following:

- 14.3.1 If CONTRACTOR requests substitution of a DBE subcontractor or supplier listed in its **Document Disadvantaged Business Enterprise Information and Certifications** form, the CONTRACTOR shall exert good faith efforts to replace the DBE firm with another DBE firm subject to approval of the COUNCIL.
- 14.3.2 CONTRACTOR shall not terminate for convenience any DBE subcontractor or supplier listed in its **Disadvantaged Business Enterprise Information and Certifications** form (or an approved substitute DBE firm) and then perform the work itself or with its affiliates without prior written consent of the COUNCIL.
- 14.3.3 If a DBE subcontractor or supplier is terminated or fails to complete its work on the contract for any reason, CONTRACTOR shall make good faith efforts to find another DBE firm to substitute for the original DBE firm.
- 14.3.4 The dollar amount of amendments or any other contract modifications will be entered into the DBE Contract Monitoring System (CMS).
- 14.3.5 The CONTRACTOR will identify a "DBE and Workforce Liaison" who will serve as a single point of contact for all CONTRACTOR DBE and Workforce issues.
- 14.3.6 Failure to comply with the provisions of this section FTA-14.3 may result in the COUNCIL finding CONTRACTOR in noncompliance with the DBE provisions of this Contract and the imposition of Administrative Sanctions described in section FTA-14.6.

14.4 Reporting.

- 14.4.1 The CONTRACTOR will submit monthly progress reports to the COUNCIL reflecting its DBE participation through the CMS.
- 14.4.2 Upon award of a contract a representative from the COUNCIL will assign the DBE and Workforce Liaison a CMS user account and provide a CMS User Manual detailing the following guidelines.
- 14.4.3 All committed DBE subcontractors to be used on the contract must be entered into the CMS system.
- 14.4.4 All DBE billing, submitted during the reporting period, must be finalized and entered into CMS prior to submission of CONTRACTOR'S payment application.

14.4.5 Any changes to the DBE subcontractor list or their amounts must be entered into CMS. Changes include; DBE firms removed, DBE firms added, changes to subcontract amounts, and DBE credit adjustments.

14.4.6 All payments made to DBE firms must be finalized and entered into CMS within 10 days of receipt of payment from the COUNCIL.

14.4.7 Failure to submit this report in a timely manner will result in a penalty of \$10 per late day per report and may also result in the imposition of Administrative Sanctions under section FTA-14.6, pursuant to the COUNCIL's DBE policy and USDOT regulations. For the purposes of this section FTA-14.4, timely submittal means receipt in the contract compliance function of the COUNCIL's Office of Diversity and Equal Opportunity by the close of business on the fifteenth (15th) of the following month.

14.5 Review of Good Faith Efforts

14.5.1 The COUNCIL's Office of Equal Opportunity will review the CONTRACTOR's DBE progress reports to monitor and determine whether the utilization of DBE firms is consistent with the commitment of CONTRACTOR as stated in its proposal.

14.5.2 If it is determined that the CONTRACTOR's DBE utilization under the contract is not consistent with its commitment, the CONTRACTOR will be requested, in writing, to submit evidence of its good faith efforts to meet the commitment. The CONTRACTOR shall be given ten (10) working days to submit this documentation. Failure to respond shall place the CONTRACTOR in non-compliance and subject to imposition of Administrative Sanctions as described in section FTA- 14.6.

14.5.3 The CONTRACTOR's good faith efforts documentation will then be reviewed for accuracy, sufficiency and internal consistency. COUNCIL staff shall make a determination as to the adequacy of the CONTRACTOR's good faith efforts documentation and so inform the CONTRACTOR. If it is determined that the CONTRACTOR's good faith efforts documentation is acceptable, the CONTRACTOR will be deemed to be in compliance with the DBE program.

14.5.4 If it is determined that the CONTRACTOR's good faith efforts documentation is not acceptable, the CONTRACTOR will be notified and be deemed to be in non-compliance with the DBE program.

14.5.5 Non-compliance by the CONTRACTOR with the requirements of federal DBE regulations (49 CFR part 26) constitutes a breach of contract and may result in imposition of Administrative Sanctions as described in section FTA-14.6.

14.6 Administrative Sanctions.

14.6.1 If the COUNCIL deems the CONTRACTOR to be in non-compliance with the DBE requirements of this Contract, the COUNCIL will inform the CONTRACTOR in writing, by certified mail, that sanctions shall be imposed for failure to meet DBE utilization goals and/or failure to submit documentation of good faith efforts. The notice will state the specific sanction to be imposed.

14.6.2 The CONTRACTOR has five (5) working days from the date of the notice to file a written appeal to the COUNCIL's Regional Administrator. Failure to respond within the five (5) day period shall constitute a waiver of appeal. The Regional Administrator or designee, at his or her sole discretion, may schedule a hearing to gather additional facts and evidence and

shall issue a final determination on the matter within five (5) working days of receipt of the written appeal. There shall be no right of appeal to the COUNCIL's governing board.

- 14.6.3 Sanctions may include, without limitation: suspension of any payment or part due to the CONTRACTOR for work that was identified to be performed by a DBE at the time of contract award, or of any monies held by the COUNCIL as retained on the contract; denial to the CONTRACTOR (including its principal and key personnel) of the right to participate in future contracts of the COUNCIL for a period of up to three years; and/or termination of the contract for cause.

ARTICLE FTA-14. DISADVANTAGED BUSINESS ENTERPRISE (DBE) – NO GOAL (CA Select Appropriate Article 14)

14.1 Nondiscrimination. Pursuant to 49 CFR part 26, the CONTRACTOR, sub-recipient or subcontractor 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 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the CONTRACTOR to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contractor such other remedy as the COUNCIL deems appropriate. The CONTRACTOR shall include this requirement in all subcontracts pursuant to this Contract.

14.2 Prompt Payment.

14.2.1 Reserved.

14.2.2 The CONTRACTOR agrees to pay subcontractors within ten (10) calendar days of the CONTRACTOR's receipt of payment from the COUNCIL for undisputed services provided by the subcontractor. The CONTRACTOR agrees to pay subcontractors all undisputed retainage payments within ten (10) calendar days of completion of the work, regardless of whether the CONTRACTOR has received any retainage payment from the COUNCIL. The CONTRACTOR shall not postpone or delay any undisputed payments owed subcontractors without good cause and without prior written consent of the COUNCIL.

14.2.3 The CONTRACTOR shall not, by reason of said payments, be relieved from responsibility for Work done by the subcontractor and shall be responsible for the entire Work under this Contract until the same is finally accepted by the COUNCIL.

14.2.4 The CONTRACTOR agrees to include in all subcontracts a provision requiring the use of appropriate alternative dispute resolution mechanisms to resolve payment disputes.

14.2.5 The CONTRACTOR will not be reimbursed for work performed by subcontractors unless and until the CONTRACTOR ensures that subcontractors are promptly paid for work they have performed. Failure to comply with the provisions of this section FTA-14.2 may result in the COUNCIL finding CONTRACTOR in noncompliance with the DBE provisions of this Contract.

ARTICLE FTA-15. RESERVED

ARTICLE FTA-16. RESERVED

ARTICLE FTA-17. INTELLECTUAL PROPERTY RIGHTS

The requirements of this Article apply to all contracts for experimental, developmental, or research work purposes. Certain patent rights and data rights apply to all subject data first produced in the performance of this Contract. The CONTRACTOR shall grant the COUNCIL 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 or U.S. DOT. 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, until such time as FTA 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.

- 17.1** 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.
- 17.1.1 Any subject data developed under the Contract, whether or not a copyright has been obtained; and
- 17.1.2 Any rights of copyright purchased by the CONTRACTOR using Federal assistance in whole or in part by the FTA.
- 17.2** Unless FTA determines otherwise, the CONTRACTOR performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA'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.
- 17.3** 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.
- 17.4** 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.
- 17.5** 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.
- 17.6** 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.

ARTICLE FTA-18. SAFE OPERATION OF MOTOR VEHICLES

18.1 *Seat Belt Use.*

The CONTRACTOR agrees to implement Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by:

- (1) Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles; and
- (2) Including a "Seat Belt Use" provision in each third party agreement related to this Contract.

18.2 *Distracted Driving, Including Text Messaging While Driving.*

The CONTRACTOR agrees to implement Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. § 402 note, (74 Fed. Reg. 51225); U.S. DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009; and U.S. DOT Special Provision pertaining to Distracted Driving by:

- (1) The CONTRACTOR agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle CONTRACTOR owns, leases, or rents, or a privately-owned vehicle when on official business in connection with this Contract or when performing any work for or on behalf of this Contract.
- (2) The CONTRACTOR agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- (3) The CONTRACTOR agrees to include the preceding "Distracted Driving, Including Text Messaging While Driving" provisions in each third party agreement related to this Contract.

ARTICLE FTA-19. TELECOMMUNICATIONS CERTIFICATION

CONTRACTOR certifies through the signing of this Contract that, consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018), the CONTRACTOR does not and will not use any equipment, system, or service that uses "covered telecommunications equipment or services" (as that term is defined in Section 889 of the Act) as a substantial or essential component of any system or as critical technology as part of any system. The CONTRACTOR will include this certification as a flow down clause in any contract related to this Contract

ARTICLE FTA-20. RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION

20.1 When applicable contracts in excess of \$175,000, and all nonprocurement transactions, as defined in 2 C.F.R. §§ 180.220 and 1200.220, in excess of \$25,000 will 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. Specific language for dispute resolution will be provided in any resultant contract of the successful proposer.

20.2 Notification to FTA; Flow Down Requirement. If a current or prospective legal matter that may affect the Federal Government emerges, the Contractor must promptly notify the Council and FTA's Region 5 Office's FTA Chief Counsel and Regional Counsel. The Contractor must include these requirements as a flow down clause in any subcontract related to this Contract.

20.2.1 The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

ARTICLE FTA – 21. FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

21.1 Applicability to Contracts; Flow down Requirements. This requirement is applicable to all contracts. The Federal Tax Liability and Recent Felony Convictions prohibition extends to all third party contractors and their subcontracts at every tier.

21.2 Transactions Prohibited. The Contractor agrees that, prior to entering into any Third Party Agreement with any private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, the Recipient will obtain from the prospective Third Party Participant a certification that the Third-Party Participant:

- (1) does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
- (2) was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

21.3 Failure to Certify. If the prospective Third-Party Participant cannot so certify, the Contractor agrees to refer the matter to the Council and not to enter into any Third-Party Agreement with the Third-Party Participant without the Council's written approval.

END OF EXHIBIT C