

PUBLIC NOTICE

INVITATION FOR BIDS (IFB)

Provision of Van Service On Behalf of The Cattaraugus County (New York) Department of Aging (“CCDOA”), Department of Community Services (“CCDCS”), Cattaraugus One Stop Career Center (“One Stop”), Department of Health (“CCDOH”), Youth Bureau (“CCYB”) and the Cattaraugus Rehabilitation Center, Inc. and NYSARC, Inc. (Cattaraugus County Chapter)

Sealed bids to procure bus and van services within geographic areas to meet the needs of individuals serviced by the above referenced departments of Cattaraugus County, New York, the Cattaraugus Rehabilitation Center, Inc., and NYSARC, Inc. (Cattaraugus County Chapter) (Cattaraugus Rehabilitation Center and NYSARC are hereafter collectively called the “Center”) as those needs are defined in the Description of Services section, below, are being solicited by the Cattaraugus County Legislature (the “County”) on behalf of the named parties. The period of this procurement shall be July 1, 2012 through June 30, 2015. The contract may be renewed at the joint option of the County and the Center for two (2) additional one-year periods. Bids will be received by the undersigned until 1:00 pm on May 18, 2012. Bids will be publicly opened at 2:00 pm by the undersigned at the direction of the Human Services and Senior Services Committees of the Cattaraugus Legislature at the County Center, 303 Court St., Little Valley, NY, 14755, 3rd floor, Large Committee Room. All bids must be sealed and clearly marked:

ATTENTION: BUS AND VAN SERVICE BID.

All bid submissions must be sent or delivered to the Office of the Clerk of the Cattaraugus County Legislature at the time and address specified above. All bids must be accompanied by a bid security in the form of a Certified Check for \$500, and include executed copies of the required certification and bid forms. Any bid not containing these items, or any submission not so marked or received at the time and place designated in this IFB will not be considered.

Detailed specifications and bid forms may be downloaded from the Cattaraugus County website (www2.cattco.org) or obtained from the Clerk of the Cattaraugus Legislature, County Center, 303 Court Street, Little Valley, New York 14755. Bid packages may be requested by telephone: (716) 373-8030, or facsimile: (716) 938-9306.

Questions regarding the bid will be received either by phone or facsimile until noon on May 14, 2012. Such questions should be addressed to Susan Solomon (phone: 716-297-8641, Ext. 1; Fax 716-285-6624). Written responses to such questions will be provided to all parties who secure a copy of this IFB, and shall be posted on the Cattaraugus County website.

Prospective bidders are advised that the services to be provided under any contract arising from this procurement may be financed, in part, by grants provided by New York State and/or the Federal government. All applicable laws, rules, and regulations shall apply to the contract awarded to, and to be executed by, the Successful Bidder.

All potential respondents are notified that disadvantaged and women-owned enterprises are encouraged to submit responses to this request. Cattaraugus County and the Center will ensure that respondents to this request will not be discriminated against based on sex, race, color, creed or national origin in consideration of an award.

The County Legislature and the Center reserve the right to reject any or all bids, to waive any informalities, to withdraw this solicitation at any time, and to accept the lowest responsible, responsive bid. Cattaraugus County and the Center are equal opportunity employers.

John R. Searles, Clerk
Cattaraugus County Legislature
County Center
303 Court Street
Little Valley, NY 14755

James Bellanca
President and CEO
Cattaraugus Rehabilitation Center, Inc.
1439 Buffalo Street
Olean, NY 14760

INSTRUCTIONS TO BIDDERS
CATTARAUGUS COUNTY AND THE CENTER TRANSPORTATION

1. BID FORM

Bids shall be submitted on the Cattaraugus County and The Center bid forms appended to these Bid Specifications or the bids will not be considered. Bids must be typed or printed in ink. Original autograph signatures in ink are required. Facsimile or rubber stamp signatures will not be accepted. All blanks must be filled in with the required information. If a bidder does not desire to submit a bid on a specific item for which a bid is requested, the designation "N/B" or "No Bid" must be entered.

2. CHANGES

Any change in wording or interlineations by a bidder of the inquiry as published by Cattaraugus County and The Center shall be reason to reject the proposal of such bidder, or in the event that such change in the Invitation to Bid is not discovered prior to entering into a contract, to void any contract entered into pursuant to such bid.

3. INFORMALITIES

The County and The Center may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all bids. The contract award will be made to the lowest qualified bid. Conditional bids will not be accepted.

4. BID TIME

Any bid may be withdrawn prior to the above scheduled time for the opening of bids, or authorized postponement thereof. Any bid received after the time specified shall not be considered.

5. INVESTIGATIONS

The County and The Center may make such investigations as it deems necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the County and The Center all such information and data for this purpose as the County and The Center may

request. The County and The Center reserve the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy the County and The Center that such bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein.

6. BID ENVELOPE

Each bid must be submitted in a sealed envelope clearly marked as to contents therein, bearing on the outside the name and address of the bidder. If sent by mail, the sealed envelope containing the bid must be enclosed in another envelope labeled as specified.

7. NON-COLLUSIVE CERTIFICATION

Non-collusive bidding certification shall be made by each bidder in the form provided and shall be submitted as part of the bid. Bids submitted without non-collusive bidding certification will be considered irregular and may be rejected by the County and The Center.

8. CONTRACT AWARD

Contract(s) will be awarded after due consideration of the suitability of services bid to satisfy these specification, the total cost of such services including all cost elements, and the timeliness of the agreed delivery date.

9. EXECUTORY CLAUSE

This executory clause shall be part of any agreement entered into pursuant to this bid:

"It is understood by the parties that in accordance with the provisions of the Bid Specifications that are a part of this agreement, this agreement shall be executory only to the extent of the monies available to the County of Cattaraugus and The Center and appropriated therefore, and no liability on account thereof shall be incurred by the County and The Center beyond the monies available and appropriated for the purpose thereof."

10. **DELIVERY SCHEDULE**

Failure to meet the delivery schedule for the services as per the accepted bid may result in legal action by Cattaraugus County and The Center to recover damages.

11. **TAXES**

No taxes are to be billed to the County and The Center. Bids shall not include any Federal, State or local excise, sales, transportation, or other tax unless Federal or State law specifically levies such tax on purchases made by a political subdivision. Any applicable taxes from which the County and The Center is not exempt shall be listed separately as cost elements, and added into the total net bid.

12. **COMPLIANCE WITH LAWS**

The successful bidder shall comply with all laws, rules, regulations and ordinances of the Federal Government, the State of New York and any other political subdivision or regulatory body which may apply to its performance under this contract.

13. **DISCRIMINATION**

In accordance with NY State Labor Law Article 8 §220-e, the successful bidder agrees:

- a. That in hiring of employees for the performance of work under this contract or any subcontract hereunder, no contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall by reason or race, creed, color, sex or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates;
- b. That no contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, creed, color, sex or national origin;
- c. That there may be deducted from the amount payable to the contractor by

Cattaraugus County or The Center under this contract a penalty of fifty dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract;

- d. That this contract may be canceled or terminated by Cattaraugus County and The Center and all monies due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of the section of the contract; and
- e. The aforesaid provisions of this section covering every contract for or on behalf of Cattaraugus County and The Center for the services shall be limited to operations performed within the territorial limits of the State of New York and its immediate environs.

14. **CONTRACT ASSIGNMENTS**

The bidder shall not assign, transfer, sublet, or otherwise dispose of this contract, or of its right, title, interest or obligations in and under this contract, or its power to execute the same, to any other person or corporation without the previous consent, in writing, of the Chairman of the Cattaraugus County Legislature.

15. **ALTERNATE ITEMS**

If services other than those specified in this bid document are offered, the bidder must so state and furnish at the time of bid opening, if so requested, and as part of his bid, a complete description of the service offered, and a detailed explanation of the differences between the service specified and the service offered. If in the opinion of the County and The Center, sufficient detail is not presented as part of the sealed bid to permit definite evaluation of any substitute service, the bid will not be considered.

16. **ADDITIONAL INFORMATION**

Any additional information which a bidder desires to add to the bid shall be written on a separate sheet of paper, attached to, and submitted with the formal sealed bid, to be read at the formal bid opening.

17. **HOLD HARMLESS**

The successful bidder to whom the bid is awarded shall indemnify and hold harmless Cattaraugus County, The Center, and its agents and employees from and against all claims, damages, losses or causes of action arising out of, or resulting from, such vendor's performance pursuant to this bid.

18. **BID VALIDITY**

The bid is firm and irrevocable for a period of 45 days from the date and time of the bid opening. If a contract is not awarded within the 45 day period, then a bidder to whom the bid has not been awarded, may withdraw his bid by serving written notice of his intention to do so upon the Clerk of the County Legislature and The President and CEO of The Center . Upon withdrawal of the bid pursuant to this paragraph, the County and The Center will forthwith return the bidder's security deposit.

19. **CONTRACT INTEREST**

No official or employee of the County or The Center, who is authorized in such capacity, and on behalf of the County or The Center, to negotiate, make, accept or approve or to take part in negotiating, making, accepting, or approving a contract to be awarded in connection with this bid shall become directly or indirectly interested personally in such contract or in any part thereof. No officer or employee of, or for the County or The Center, who is authorized in such capacity, and on behalf of the County or The Center, to exercise any supervisory, administrative, or other function, in connection with a contract to be awarded in connection with this bid, shall become directly or indirectly interested personally in such contract or in any part thereof.

28. **PRICE IS FIRM**

The unit prices shall remain firm, and any other charges bid shall also remain firm, for delivery of the services described in this bid. Except as specifically stated in these bid specifications, no cost increase shall be charged for any reason whatsoever.

29. **CORPORATE COMPLIANCE POLICY**

The County and The Center have adopted a Corporate Compliance Policy, a copy of which is available from the County Administrator's Offices in Olean and Little Valley, or the County's web site at: www.cattco.org. The Contractor has reviewed the standards of conduct and policies and procedures in the Corporate Compliance Policy. The Contractor will require compliance with such standards of conduct and policies and procedures by all who provide services to the County and the Center on behalf of the Contractor.

Contents

General Information	7
Additional Terms and Conditions	8
Material to be Submitted with Bid	10
Appendix A: Bid Specifications	11
I. Scope	11
II. Credentials	13
III. Definitions	13
IV. Technical Specifications	18
V. Operations and Procedures	22
VI. Personnel Requirements	29
VII. Liquidated Damages	33
VIII. Insurance Requirements	37
IX. Fuel	38
X. Financial	38
XI. Past Performance	39
XII. Bid In Excess of Current Contract Cost	40
XIII Corporate Compliance Policy	40
XIV Miscellaneous.....	40
Appendix B: Bid Performance of Contract with Cattaraugus County	42
Appendix C: Legal Status Information	43
Appendix D: Non-Collusive Bidding Certification	44
Appendix E: Bid Proposal Form	46
Appendix F-1: Standard State and Federal Clauses for NYS Contracts.....	53

General Information

Bid Submission: All bids are to be mailed or delivered in a sealed envelope clearly marked “**BUS AND VAN SERVICE BID,**” to Cattaraugus County Administration Office, County Center, 303 Court Street, Little Valley, NY 14755. The opening time: 2:00 pm and date: May 18, 2012 of opening should also be visible. Delay in mail delivery is *not* an exception; allowance for time of arrival should be made.

Discrepancies or Omissions: If the bidder should find any discrepancies or omissions in the specifications, he will notify **Susan Solomon, VMC Group, Inc. 9701 Niagara Falls Blvd., Suite 1A, Niagara Falls, NY 14304**, both verbally (by phone: 716-297-8641) and in writing. Ms. Solomon will send written instructions to all bidders. Neither the Partners (as defined Hereafter), VMC Group, Inc., nor Ms. Solomon will be responsible for any oral instructions or interpretations of the meaning of the specifications or other contract documents to any bidder by any person or persons.

Proposal Forms: All bids are to be made out on the proposal forms attached as Appendix E hereto. *All certificates must be completed, signed and in compliance with the provisions of the General Municipal Law.*

Contract Award: The contract(s) will be awarded to the lowest responsible bidder, offering the best prices, and meeting all specifications and qualifications. Past performance will be considered in making the final selection of contractors. The County of Cattaraugus and the Center reserve the right to reject any or all bids, or any parts of bids, or any supplies or contractual services connected thereto, when to do so would be deemed by the County and The Center to be in the best interest of the public.

Upon acceptance of any bid, the Successful Bidder will, and by submitting a bid agrees to, execute a contract in accordance with these specifications and such other provisions as are normal and customary in agreements to provide services to the County and the Center, and as may be required by the Partners, the Federal Government, and the State of New York. It is specifically understood that each and every provision of the specifications contained herein will be incorporated into the contract. Notwithstanding the foregoing, in the event that the Successful Bidder does not execute such a contract, or if the Services are to commence before a contract is prepared and executed, until such contract is executed, this document shall be deemed to be the contract between the Successful Bidder and the County and the Center, and the Successful Bidder's execution and submission of the Bid Forms shall be deemed to be the execution of such contract.

Responsible Bidder: A responsible bidder is a manufacturer, producer, dealer, vendor or bona fide manufacturer's agent who has demonstrated judgment and integrity, is of good reputation, experienced in his work, whose record of past performance in the trade is established as satisfactory and whose financial status is such that it provides no risk to the County of Cattaraugus and The Center in its contractual relations. The Successful Bidder will allow the County and The Center or its designee to inspect the bidder's facilities so as to verify the bidder's capacity to complete the contract.

Firm Bids: No bid may be withdrawn within forty-five (45) days after the actual date of the bid opening. This is in accordance with New York State General Municipal Law §105.

Copies of Bids: Bidders who request copies of the bid quotations must do so in *writing*, enclosing a stamped self-addressed envelope for reply.

Questions: Questions from prospective bidders should be submitted by facsimile or telephone to Susan Solomon (facsimile: 716-285-6624; phone: 716-297-8641, Ext. 1). Such questions must be received by noon on May 14, 2012. Written responses to such questions will be sent by facsimile to all parties that received a copy of this IFB, and will be posted on the Cattaraugus County website (ww2.cattco.org).

Additional Terms and Conditions

Intent:

A. County:

It is the intent of this bid to contract for transportation of individuals to whom transportation is to be provided by the Cattaraugus County Department of Aging (“CCDOA”), Department of Community Services (“CCDCS”), Cattaraugus One Stop Career Center (“One Stop”), Department of Health (“CCDOH”), and Youth Bureau (“CCYB”) and The Center. The nature of the passengers and the extent of the transportation required is estimated in Appendix E. The nature and the extent of the passengers to be serviced is an estimate based on requirements in the most recent year. The actual passengers to be transported in connection with this IFB will be ordered as required by the County of Cattaraugus and The Center from time to time during the Term of the contract.

B. Adjustments to Bus Runs or Transportation Service as the result of collaboration:

The Partners, and the Agent shall evaluate the need for either an increase or decrease in the number of Bus Runs or Vehicles based on transportation service coordination opportunities with any or all departments in Cattaraugus County and The Center.

These adjustments to the number of bus runs will be the result of two routing principles: (i) commingling Cattaraugus County and Center Passengers; and (ii) maximizing the use of these commingled vehicles as the result of route optimization. The objective of both principles is a reduction in the number of Vehicles required.

Verbal Alterations to Specifications: These Specifications will be considered to be complete and shall be considered the entire description of the goods or services upon which the County of Cattaraugus and The Center is now seeking bids in connection with this IFB. Only formal written addenda can materially alter this set of Specifications. No verbal statement made by a Cattaraugus County employee, or an employee of the Center, or any agent acting on behalf of the County or The Center or any other person is binding, nor shall such statement be considered an official part of this IFB.

Ownership and Inspection of Files and Records: Any and all files and/or records containing information gathered or generated in connection with the program(s) to which this bid relates are, and shall be at all times be, the property of the County and The Center. The Partners or its Agents shall have the right to inspect such files and records at any time or times and to make copies or abstracts thereof. In addition, such files and records, together with files and records required to be maintained in accordance with any one or more provisions of these Specifications, shall be subject to audit and/or inspection by any department of the Partners, the Agent, departments of the State of New York and/or the Federal government having appropriate jurisdiction. On reasonable request from the Partners, or the Agent, the Contractor will make copies of specified portions of such files and records and deliver those copies to as directed. Upon the expiration of the term of the contract, at the County's and/or the Center's election, all such files and records shall be retained by the Contractor until instructed otherwise by the applicable party that such files and records should be delivered to one or both of the parties, or destroyed.

Bond/Insurance Due Dates: Insurance and Bonding requirements are as set out on Appendix A, Section VIII (at page 37) and X (at page 39), respectively. Any certificates of insurance, bonds or other forms of security required by this bid are to be submitted to the County or its Agent no later than ten (10) normal business days following the date of notification of award. Documents must be received by the close of business, 5:00 p.m. on that day.

Termination of Contract: If the Contractor defaults or fails to perform the Service in accordance with the contract, including these Specifications, then the County and the Center may, upon oral or written notice to the Contractor, and without prejudice to any other remedy the County and the Center may have, make good such deficiencies and may deduct the cost thereof, from the payment then or thereafter due to the Contractor. The County and the Center may terminate the contract in whole or in part, by giving the Contractor ten (10) days notice in writing of its intention to so terminate. The Contractor shall be liable for any additional expenses incurred by the County and The Center to complete the performance under the contract. In the event that, for any reason, the County and The Center is no longer required to provide transportation services to all of the groups of passengers described in these Specifications or in the event that at any time monies are not allocated, appropriated or become unavailable for the services described herein, the contract may be terminated.

MATERIAL TO BE SUBMITTED

Except as otherwise noted below, ALL BIDS SUBMITTED MUST INCLUDE THE FOLLOWING:

1. Bid Proposal Form(s) (Appendix E).
2. Bid for Performance of Contract with Cattaraugus County legislature (Appendix B).
3. Legal Status Information (Appendix C).
4. Non-Collusive Bidding Certification (Appendix D).
5. Name of bank as financial stability. (See Appendix A, Section II, A)
6. FCC Radio License Number(s). (See Appendix B, Section IV, J). *To be submitted by the Successful Bidder not later than ten (10) days prior to the commencement of the Transportation Services.*
7. List of certified drivers. (See Appendix A, Section VI, A.). *To be submitted by the Successful Bidder not later than ten (10) days prior to the commencement of the Transportation Services.*
8. Certificate of Insurance (See Appendix A, Section VIII). *To be submitted by the Successful Bidder within ten (10) business days following the date of notification of award.*
9. Performance Security. (See Appendix A, Section X). *To be submitted by the Successful Bidder within ten (10) business days following the date of notification of award.*
10. Bid Security. (See Appendix A, Section XI).

Appendix A

SPECIFICATIONS FOR TRANSPORTATION, BY BUS OR VAN, OF INDIVIDUALS REQUIRED TO BE TRANSPORTED BY THE CCDOA, CCDCS, One Stop, CCDOH, CCYB, and THE CENTER DURING THE PERIOD FROM JULY 1, 2012 THROUGH JUNE 30, 2015

I. SCOPE

- A. The CCDOA requires transportation for certain senior citizens to and from certain nutrition centers, day care centers, and shopping areas. The required transportation service is normally to be provided on weekdays. Efforts will be made to arrange trips on one (1) week notice. At times, transportation may have to be arranged on 24-hour notice. The destination sites for such transportation are presently as set out on the Bid Sheets in Appendix E, although provision must be made for periodic changes in regular destination sites, and for periodic excursions to additional locations for recreational activities or otherwise. Some, but not all, passengers assigned by the CCDOA will be Individuals with Special Needs (as that term is defined in Section III of this Appendix A), and as such may require Passenger Assistance (as that term is defined in Section III of this Appendix A). The service required may be either Subscription Transportation or Demand Response.
- B. CCDCS requires transportation for certain Individuals with Special Needs (as that term is defined in Section III of this Appendix A). The service required is primarily Subscription, and the destination sites will vary, but will primarily be to and from the sites set out in Appendix E, although provision must be made for periodic changes in regular destination sites, and for periodic excursions to additional locations for off-site program activities or otherwise. The intent of this service is to provide Subscription Transportation on a multi-passenger vehicle. Transportation provided to individuals serviced by the CCDCS will be on weekdays and although efforts will be made to arrange trips on one (1) week notice, at times transportation may have to be arranged on 24-hour notice.
- C. CCYB and CCDOH require transportation for certain Children with Special Needs who are receiving services in connection with the County's Preschool and Early Intervention Programs. These children will be age 0-5. This service will be in nature Subscription Transportation, and will consist of regular routes and runs similar to those set out in Appendix E, although additions and deletions to the trips may be required periodically. Transportation provided to CCYB and/or CCDOH passengers will be provided on weekdays, and at least five (5) business days notice of run scheduling and/or additional passengers to be added to existing Runs will be given. No Run will exceed fifty (50) miles, unless it is appropriately certified that necessary services cannot be provided at a site within fifty (50) miles, and without the prior consent of the department, no Run will exceed ninety (90) minutes.
- D. While it does not presently require transportation services, during the Term hereof, One Stop may require transportation for individuals to attend school, training, informational interviews, job interviews, testing, community events, meetings, work, summer youth programs, and/or for other similar purposes. In the past, some Service was required on a 7-day per week basis because some training or work activities occurred during non-standard hours. Transportation for passengers authorized by this agency may require

Service to be arranged within two (2) to three (3) hours. If Service is needed, it might be because One Stop passengers are attending specific programs (especially summer youth programs), and therefore these passengers would require Services for specific and limited periods of time, but some might require service to continue for a period of time.

- E. It is understood each department or agency for which service is to be provided, may make use of other types of transportation, including, but not limited to Medicaid transportation. The form of transportation to be utilized will be determined by the County and the Center, or the Agent. In this respect, nothing in this Specification shall be construed so as to imply that the departments named herein will make exclusive use of Bus or Van services in connection with the transportation of individuals serviced by such departments.
- F. At the County's and the Center's discretion, and at the instruction of either such party or its Agent, transportation will be provided from a defined point of origin to a transfer point rather than to an actual program or medical destination.
- G. Vehicles transporting multiple passengers will be required to drop some passengers off at interim points, without additional payment.
- H. The Center owns thirteen (13) buses with a seating capacity of a maximum of forty (40) passengers (the "Center-Owned Vehicles"). All Center-Owned Vehicles are equipped with wheelchair capability, either with flip seats, or removable seats. As specified in Appendix E, bidders are to provide one rate for Center-Owned Vehicles, and a second rate for vehicles to be provided by the Contractor.
- I. With respect to the Center-Owned Vehicles, the Successful Bidder and the Center shall enter into a written Lease Agreement (the "Lease"), and the Lease shall be become an Addendum to the Contract between the said parties and the Contractor. The Center-Owned Vehicle will be leased to the Successful Bidder for three thousand one hundred fifty three and 85/100 (\$3,153.85) dollars per year. The Lease shall provide that the Contractor shall be responsible for insuring, fueling, maintenance, cleaning, inspections, licensing, repairs and all costs associated with same, and that the Center shall reserve the right to ensure that such Center-Owned Vehicles are maintained properly and are in safe operating condition. The Center may inspect the Center-Owned Vehicles at any reasonable time and may bar a vehicle from service until the problem(s) are corrected. Center-Owned Vehicles are to be used solely for the provision of the Service contemplated by this IFB. Personal usage and/or use for any other purpose are strictly prohibited.
- J. Two sets of bid prices are requested. The first set (Price Rate A) shall be for the operation of the Center-Owned Vehicles. The second set of bit prices (Price Rate B) shall be for the use vehicles owned by the Contractor (the "Contractor's Vehicle(s)"). It shall be of the essence of the Contract to be entered into by the parties that the Contractor's Vehicles shall be used only if and when no Center-Owned Vehicle is available for such service, and that the Contractor shall secure the consent of the Agent prior to using a Contractor's Vehicle.
- K. The initial contract period shall be from July 1, 2012 to June 30, 2015. To the extent that specific trips to defined programs are not to be run on a 12-month basis, such information is set out in Appendix E.

- L. The County and The Center shall have two (2) separate and consecutive, and sole options to extend any contract awarded in connection with the bids submitted, for additional periods of one (1) year each. Each option shall be exercised in writing, and such option period shall commence upon the expiration of the immediately preceding contract period. In the event that one or more options to extend the contract period is exercised, all of the terms and conditions of the Contract shall apply. At the commencement of each year of the Term (including the year subsequent to the first year of the initial period, and including the period of each option that may be exercised to extend the Term), the sums to be paid to the Contractor shall be increased by an amount equal to the lesser of three and one-half (3 ½) percent, or the increase in the cost of living index ("CPI") as calculated by the US Department of Labor, Bureau of Labor Statistics (as shown on the internet at www.bls.gov, and listed under All Urban Consumers for the area of "Northeast Urban" and for areas with a population of 50,000 to 1,000,000). The CPI shall be that shown for the month of May of the applicable year.

II. CREDENTIALS

Each bid must be accompanied by a certified statement of the bidder, or in the case of corporations, by its Officers, showing the following:

- A. The name of a bank as reference to the financial stability of the bidder.
- B. A list of local or county-wide programs or schools or school districts (or similar regular transportation service recipients) with which the bidder has had transportation contracts.

In addition, no bid will be considered unless the person, firm, or corporation submitting the bid meets the following conditions and, if required, shall certify its ability to meet them:

- C. That it can provide the necessary vehicle(s) and related equipment and complement of component Drivers and Driver Assistants to carry out its part of the timely performance of required service on the opening day of the school or program as specified in this IFB, and any increase in such vehicles and Drivers and Driver Assistants required during the term to ensure the uninterrupted delivery of the Services.
- D. That the person, firm, or corporation submitting the Bid is not in bankruptcy or in the hands of a receiver.
- E. The Successful Bidder shall provide required vehicle maintenance and storage facilities to service the requirements of the Contract to be entered into in connection with this IFB, and provide road service within thirty (30) minutes of any breakdown.
- F. In addition, the Successful bidder will house The Center's Thirteen (13) vehicles.

III. DEFINITIONS

Whenever, in this IFB, the following terms, phrases, pronouns or abbreviations are used, the intent and meaning shall be interpreted as follows:

- A. “ADA” shall mean the Americans with Disabilities Act of 1990, as that act may be amended from time to time.
- B. “Addendum” shall mean additional contract provisions, if any, issued in writing by the County prior to the receipt of bids.
- C. “Agency” shall mean an agency or facility for education or provision of services to clients with special needs in accordance with New York State Education Law 4410.
- D. “Agent” shall mean the transportation management services provider designated by the Partners to coordinate, oversee and monitor Transportation Services on their behalf. For clarity and the avoidance of doubt, any actions that the Partners or either of them are permitted to take, and/or any requests that the Partners may make hereunder, may be taken or made directly by the Agent. The Contractor shall be required to comply with such request made and/or such action taken by the Agent as if such action is taken or request is made by the Partners or either of them. Failure by the Contractor to comply with requests the Agent may make, or interference with actions the Agent may take, hereunder shall be deemed breaches of the Transporter’s duty to the Partners.
- E. “Agreement” shall mean the written agreement between the County and the Contractor covering the Service. The terms “Agreement” and “Contract” shall have the same meaning, and may be used interchangeably.
- F. “Bid” shall mean the offer submitted in the prescribed form, setting forth the prices for the Services to be performed.
- G. “Bonds” shall mean Bid, Performance, and/or Payment Bond and other instruments of security furnished by the Contractor in accordance with the Bid or Agreement.
- H. “CCDCS” shall mean the Cattaraugus County Department of Community Services.
- I. “CCDOA” shall mean the Cattaraugus County Department of the Aging.
- J. “CCDOH” shall mean the Cattaraugus County Department of Health.
- K. “One Stop” shall mean Cattaraugus One Stop Career Center .
- L. “CCYB” shall mean the Cattaraugus County Youth Bureau.
- M. “Center” shall mean the Cattaraugus Rehabilitation Center, Inc., and NYSARC, Inc.
- N. “Children with Special Needs” shall mean those children, aged 0-5 who the CCYB or the CCDOH has determined are eligible for transportation at public expense.
- O. “Client” shall mean a transportation service recipient who is identified for transportation to and/or one or more of the programs sponsored by the parties named at the head of this Appendix A, and such other departments or agencies of the Partners as the Partners or the Agent may assign for transportation hereunder from time-to-time. The Term Client includes, but is not limited to Children with Special Needs as and when the context requires.

- P. “Client Assistance” shall mean to guide, direct and/or provide physical assistance to the Client, if needed and permitted hereunder, to carry out the trip’s purpose. This may include assisting a client in the fastening of seat belts, in the case of Children with Special Needs, assisting the client in and out of a car seat, etc.
- Q. “Commingling” shall mean the process by which, only at the Agent’s instruction, the Contractor shall combine passengers from both The County and The Center onto a single Run.
- R. “Consolidation” shall mean the joining together or merging of transportation services for mutual advantage of the respective funding County departments and The Center, whether or not such consolidation is made solely considering departments subject to this document or considering other County departments, The Center, or agencies not subject to this document.
- S. “Contract” or Contract Documents” shall mean each of the various parts of the Agreement referred to in this document. This term shall refer to the Contract as a whole or severally.
- T. “Contractor” or “Successful Bidder,” whether a corporation, partnership, individual or any combination thereof, and its, or his or her successors, personal representatives, executors, administrators and permitted assignees, shall mean the organization, company or agency awarded the bid through this procurement. The Contractor is sometimes herein referred to as the “Transporter.
- U. “Contract Price” shall mean the total monies payable to the Contractor under the Contract.
- V. “Coordination” shall mean the bringing together or acting in a concerted and harmonious way as it relates to the provision of the Services funded by the County departments and The Center referenced herein. This effort is focused on the provision of smooth interaction of separate transportation funders within a countywide system.
- W. “County” shall mean the County of Cattaraugus, a municipal corporation organized under the laws of New York State.
- X. “Curb-to-Curb Transport” shall mean that the Vehicle will pick-up and drop-off each child at a point as close to the entry of that child’s pick-up and drop-off location as safety will permit. At the Program Provider location, the pick-up and drop-off shall be made where instructed by such Program Provider; at all other places the pick-up and drop-off shall be “right-hand” only so that no child crosses a street to enter or exit the Vehicle. In connection with the foregoing, without the Partner’s prior approval, Drivers or Monitors shall not meet a passenger at the entry to his or her pick-up or drop-off location and escort him or her to the Vehicle or from the Vehicle to the entry of his or her pick-up or drop-off location.
- Y. “Demand Response,” in connection with transportation services, shall mean non-fixed route Service that is not regularly scheduled. In general, Demand Response Service will be ordered with not less than 24-hour notice, although in special circumstances passengers must be accommodated with less than twenty-four hours notice.

- Z. “Driver” shall mean any person who operates a Vehicle used in connection with the Services, and shall include a regularly scheduled driver, a substitute driver or a spare driver unless otherwise specified.
- AA. “Driver Assistant,” “Monitor,” or “Escort” shall mean a person, other than the Driver, assigned to a Vehicle used in connection with the Services, to assist a passenger and the Driver. The “Escort” is a person who may be staff or volunteers accompanying a child or older person on a Vehicle, to ensure that the passenger receives needed services or resources. The “Driver Assistant” or “Monitor” will typically be a person assigned by the Contractor. The need for Driver Assistants or Escorts will typically be required with respect to Children with Special Needs and possibly Individuals with Special Needs. Escorts or Driver Assistants will be assigned at the instruction of the Partners or either of them, or the Agent.
- BB. “Facility” or “Program Provider” shall mean the destination point of a Run at which services are provided to a client. As the context requires, these terms shall also mean the organization providing the service. Although Facilities are generally in a fixed location, and the Services are to be rendered from the passenger’s residence to the Facility, at times the Program Provider may schedule off-site program activities for the Clients, and in such event, on notice from the County or its Agent, Facilities or Program Provider shall mean the site of such recreational activity.
- CC. “IFB” shall mean and refer to this Invitation for Bids.
- DD. “Individuals with Special Needs” shall mean those individuals, ages 6 and above, identified by and eligible for departmental programs, who have developmental disabilities, mental illness or other conditions resulting in significant impairment of cognitive, physical, mental, adaptive behavioral deficits or similar functions resulting in the need for treatment or programming.
- EE. “Loaded Vehicle” shall mean a single approved trip to or from a Facility, from the point at which the first approved passenger boards the Vehicle to the point at which the last approved passenger exits the Vehicle.
- FF. “Loaded Vehicle Hour” shall mean the amount of time during which a Loaded Vehicle is in use. The minimum time for any trip made by a Loaded Vehicle shall be one hour, additional Loaded Vehicle Hours shall be calculated in quarter hour segments.
- GG. “Loaded Vehicle Mile” shall mean the distance in miles, traveled by a Loaded Vehicle.
- HH. “Modification Agreement” shall mean a written order to the Contractor, signed by the Partners or their Agent, authorizing an addition, deletion, or revision of the Services or an adjustment in the Contract Price issued after execution of the Agreement.
- II. “Notice” shall mean a written notice. Notice shall be served upon the Contractor either personally or by leaving the notice at the Contractor’s residence or with the Contractor’s agent in charge of providing the Services, or addressed to the Contractor at the residence or place of business given in the Bid and deposited in a postpaid wrapper in any post box regularly maintained by the United States Postal Service.

- JJ. “Notice of Award” shall mean the written notice given by the Partners to the Successful Bidder.
- KK. “Notice to Proceed” shall mean the written notice given by the Partners or its Agent to the Contractor of the date for the commencement of the Services.
- LL. “Partners” refers jointly and individually to the County and the Center, it being understood that the “partner” does not imply any specific or implicit legal relationship.
- MM. “Passenger Assistance” shall mean door-to-door or curb-to-curb service as identified as necessary by the Partners. This is to mean that the Driver or Driver Assistant, if assigned, shall be responsible for providing assistance to all passengers getting in and out of the vehicles, for ensuring that seat belts, car seats, harnesses and/or other appropriate child or passenger restraints are properly utilized and secured, and for assisting Clients in the use of chair and passenger restraint system(s) provided on all wheelchair lift equipped Vehicles. The frail and/or elderly may require door-to-door service by the Driver or Driver Assistant to and from the residence and the Facility. This means that the Driver or Driver Assistant will leave the vehicle and go to the passenger’s door (whether or not the passenger appears at the door when the Vehicle arrives). Passengers requiring curb-to-curb service may be dropped off outside the destination (Facility or domicile). Unless specifically instructed to the contrary, Early Intervention and Preschool children are to receive curb-to-curb service. Passengers requiring door-to-door service may be received from, and delivered to, a responsible caregiver if appropriate. In the event that the passenger is a child, “Passenger Assistance” may include lifting the child onto and off the vehicle.
- NN. “Route” shall mean the combination of all runs (trips) that a vehicle executes throughout the day.
- OO. “Run” shall mean the travel time encompassing a series of passenger pick up points to bring the passengers to a program or the series of passenger drop-off points to take them home from a program. In all cases, run time is only calculated for Loaded Vehicle Miles.
- PP. “Subscription Transportation” or “fixed-route” service shall mean Service for which Contractor is given a list of regular passengers, and transportation is provided on a regular basis along what is the same or similar transportation path.
- QQ. “Technical Specifications” shall mean the portion of these Specifications dealing with The technical requirements of the Services to be performed under the Contract, including materials, equipment services, workmanship, qualifications and licensing.
- RR. “Transportation Services” or the “Services” shall mean utilization of Buses and/or Vans to transport passengers to and from the passengers’ places of residence to the destination locations at which the passengers are authorized to receive their special services.
- SS. “Transporter” shall mean the Contractor. When used, this term is a descriptive of the services provided by the Contractor.
- TT. “Van” shall mean a Vehicle capable of seating either 12 or 15 adult passengers as required, and conforming to all Federal State and local laws and regulations, and all County policies as set forth in this document.

- UU. “Vehicle” shall mean and refer to any Bus or Van, including spare or replacement therefore, used for the rendering of the Services, and which meet or exceed the Technical Specifications.
- VV. “Vehicle (Route) Optimization” shall mean the maximization of a vehicle’s potential usage (or minimizing vehicle idle time throughout the day by increasing the number of runs being assigned to a given vehicle (route). This is done by taking into consideration vehicle idle time, vehicle capacity, and distance travelled (including non-Loaded Vehicle Mile time).
- WW. “Wheelchair Vehicle” shall mean a vehicle which will be able to transport non-ambulatory passengers in wheelchairs, but that can also transport ambulatory passengers as well.

IV. TECHNICAL SPECIFICATIONS

Service Requirements

- A. *Service Area:* The overall service area for the Services is Cattaraugus County, New York, and its surrounding areas.
- B. *Accidents, Incidents and Complaints:* It is expected that the Successful Bidder will render the Services in a safe, efficient and courteous manner. Such courtesy shall apply to the passengers, parents and the staff of the various Facilities. In this regard, the Agent will institute specific procedures for the reporting of accidents and incidents. It is expected that the Successful Bidder will report all such matters on the forms promulgated by the Partners. In addition, the passengers, parents and/or Facility staff members may report complaints and incidents to the Partners, or the Agent. In the event that such matters are reported, the Successful Bidder will cooperate fully and diligently in the resolution of such matters. In this regard, in the event that the County and the Center require the reassignment of a Driver or Driver Assistant as part of such complaint resolution, such reassignment shall be made with due dispatch. On request by the Partners, the Successful Bidder shall provide a full written explanation of any incident or complaint.
- C. *Special Service Requirements:* The Contractor will be notified of special service requirements of passengers receiving the Services. Such requirements may include meeting an adult passenger at his or her door, assisting the passenger into and out of the Vehicle, assisting in the securing of seat belts or other restraints, and delivering that passenger to a designated person at a Facility. Special service requirements may include providing vehicles that are capable of transporting special equipment, an adult caregiver and/or similar special requirements. It is expected that the Successful Bidder will have Vehicles available to meet these needs on prior notice which is reasonable under the circumstances.
- D. *Passenger Safety Apparatus:* As set out in the following Section entitled “Equipment Requirements” some passengers will be require a safety apparatus in the nature of seat

belts, harnesses and/or car seats. It is expected that the Successful Bidder will provide car seats, seat belts and/or harnesses as required. The Successful Bidder will ensure that the Drivers and Driver Assistants are trained in connection with the proper means of securing such equipment.

- E. *In-service Training*: During the Term of the Agreement, the Partners, or the Agent may arrange for in-service training for the Drivers and the Driver Assistants. Such training may include sessions on the special needs of certain classes of passengers, sensitivity towards the disabilities of certain passengers, safety, and other matters. If arranged, then such training will take place after work hours at a central location. In the event that such training is arranged, the Contractor will be expected to arrange for the attendance of Drivers and Driver Assistants, employed by that contractor, to attend such in-service training at no additional cost to The Partners. In this regard, the Transporter will notify the Partners, and the Agent of the time, date and location scheduled for such training sessions.
- F. *Non-Exclusive Service*:
- i. The Successful Bidder will not be expected to provide service exclusively on behalf of the County and The Center, and Vehicles not then in use in connection with the provision of Services hereunder, may be used by the Contractor at the Contractor's sole discretion. However, while a Vehicle is being used to render Services hereunder, the Contractor shall not commingle County and Center clients with other passengers without the prior written approval of the County and The Center. Such approval, if applied for, may be granted or denied for an entire class of departmental trips or on a case-by-case basis.
 - ii. The Partners, and The Agent retain the right and option to determine those passengers who will be transported by Van Service. Passengers who might otherwise be assigned under contracts awarded pursuant to this IFB may be assigned to public transit, other County-operated vehicles or private (volunteer) transport or to other forms of transportation contracted for by the County and The Center pursuant to any other IFB, where such alternate assignment is deemed to be feasible and in the best interests of the County and The Center.
 - iii. *County Instruction to Commingle*: From time to time, when it is feasible based on destination and bell time, and in the best interest of the County to do so, the County may instruct the Contractor to commingle one or more passengers who are transported in accordance with another county's preschool and/or Early Intervention transportation programs and/or any agencies within the county that are not part of this Bid Specification.
 - iv. The Partners, and The Agent retain the right and option to determine whether passengers who might otherwise be transported pursuant to this IFB might be assigned to public transit, other County-operated vehicles or private (volunteer) transport or to other forms of transportation contracted for by the County and The Center pursuant to any other IFB, where such alternate assignment is deemed by the

County and The Center to be feasible and in the best interests of the County and The Center.

- G. *New or Additional Routes:* Any New Runs or Routes that are established require prior authorization by The Agent.
- H. *Changes in Routes or Runs:* In no event shall the Contractor accept any instructions concerning changes to Routes or Runs or institute such changes, including instructions to add passengers to, or delete passengers from, any Route or Run without an instruction from the Partners, or The Agent which instruction shall be made on a form promulgated by the County and The Center.
- I. *Pre-Run Notification to Passengers:* The Contractor will be responsible for contacting Clients (in the event that the client is a child, or under the supervision of a caregiver or guardian, such contact will be to the parent, guardian or caregiver, as applicable), and confirming the transportation arrangements immediately upon being notified of the trip requirements. Such confirmation shall include the estimated time of pick-up. In the event that the transportation arrangements are for Subscription Transportation along a regular fixed-route and the client is a Child with Special Needs, at least five (5) days before the commencement of Service, the Contractor will perform a dry run of the route, and will ensure that the Driver, and, if applicable, the Driver Assistant, introduce themselves to the child's parent and/or guardian. With respect to children authorized for Transportation Services after the completion of the pre-service dry runs, and/or in the event that changes in a child's transportation arrangements approved by the Partners, and The Agent occur, the Transporter shall provide prior notification to parents/guardians concerning the transportation service starting dates and approximate pick-up times in accordance with a procedure approved by the Partners, and The Agent.
- J. *Communications:* The Successful Bidder shall have FAX service available at its place of business so as to enable the forwarding of printed material related to the matters mentioned in this IFB, between the Successful Bidder, the Partners, and The Agent. In connection with this, the Successful Bidder will designate a telephone number to be dedicated to this purpose at sufficient and specific times.

Equipment Requirements

- K. All Vehicles used in the Transportation Services shall comply with the applicable requirements of the New York State Department of Motor Vehicles, New York State Department of Transportation and the Vehicle and Traffic Laws of the State of New York, as well as County and local statutes, rules and regulations governing or pertaining to the transportation of passengers on Vans.
- L. All Vehicles used by the Contractor must be inspected and registered as required for the applicable Vehicle providing the specific Services described herein, and such inspections shall be maintained as current, and each Vehicle shall display a current inspection and registration sticker at all times. The Successful Bidder must be able to supply Vehicles

meeting Federal, State and local requirements as of the date of the Commencement of Services. The Contractor will maintain, and on request by the County, The Center, or The Agent, the Contractor will provide the Partners, or The Agent with a list of VIN numbers, registration numbers and dates and inspection dates, with respect to Vehicles to be used in connection with the Services (including any spare or substitute Vehicles).

- M. As set out in Section IV (D), above, the Vehicles will have suitable safety apparatus for the assigned passengers to be transported. The safety apparatus will be those suitable for preschool handicapped children, and will include those safety apparatus mentioned in section IV (D). With respect to child seats, no such apparatus shall be in use longer than three (3) years, and each such apparatus shall in all respects satisfy the purposes of Title 49—Transportation, Part 571—Federal Motor Vehicle Safety Standards (49 CFR 571.213) and shall meet or exceed the standards of the Dynamic Systems Test for child restraint systems, as described in Chapter 5, §S (6.1) thereof. All such child seats shall be maintained in proper working order (proper meaning that it approximates the condition at the time of acquisition), and at all times be kept clean. All Drivers and Driver Assistants shall receive training in the installation and use of such equipment, and in securing passengers safely therein.
- N. With respect to Wheelchair Vehicles, lifts must include a manual override feature. In addition, there will be an interlock feature that prevents the operation of the lift unless the emergency brake is set.
- O. The contractor will ensure that all of the vehicles used for the Runs during summer months will be equipped with air-conditioning, and that in the event any such air-conditioning unit malfunctions, the contractor will repair it or provide a replacement vehicle within twenty-four (24) hours.
- P. All vehicles used in the performance of the Services must be equipped with a seat belt cutter, a standard first-aid kit, at least 3 flares and/or reflectors, and a fire extinguisher which complies with all applicable rules and regulations for that type of vehicle, and with respect to Wheelchair Vehicles, a fire blanket.
- Q. Regrooved or recapped tires of any type are not acceptable in the performance of the Services.
- R. The Partners, and the Agent shall have the right to inspect each Vehicle, and all maintenance records concerning those Vehicles providing Services. As requested by the Partners, or the Agent, the Contractor shall provide copies of the maintenance records for each Vehicle.
- S. No Vehicle used to provide Services shall be used to display any advertisement, political or otherwise, without the express written authorization of the Partners.
- T. The Contractor will install and maintain an FM mobile two-way radio, mobile phone or other means of communication acceptable to the Agent in all Vehicles used to furnish

Services hereunder. In the event that a mobile two-way radio is used, a copy of the Transporter's FCC radio license number as proof of authority to operate the radio will be supplied prior to the commencement of the Services hereunder. In addition or in the alternative, the Contractor may be required to support mobile communications, in either VHF high frequency or cellular form, with the County's Emergency Communications Center or the Partners' administrative personnel.

- U. GPS Enabled Vehicles: All Vehicles shall be equipped with a GPS (Global Positioning System) enabled Vehicle Tracking System. This system shall provide accurate, historical, and real time vehicle location and route data. This system shall have the ability to create on-demand reports as requested by the County, The Center, or The Agent.

V. OPERATIONS AND PROCEDURES

Authorized Passengers

- A. Vehicles used in connection with the Services hereunder shall be restricted to the transportation of specified approved passengers. Only authorized persons shall be permitted to ride the Vehicles while they are being used in connection with the Services hereunder. Children of Drivers and other persons not acting in an official capacity are not permitted to ride aboard the vehicles at any time without the prior consent and/or instruction of the County or the Agent. For the avoidance of doubt, except with the prior written consent of the County, passengers being transported to programs similar to the Program, whether on behalf of any private or public program provider or jurisdiction other than the County, shall be deemed to be unauthorized passengers at any time during which Services are being provided hereunder.
- B. The Successful Bidder will only provide transportation to the individuals authorized by the Partners, during the times, during the contract period and for the purpose authorized in writing by the Partners.
- C. Procedures with respect to passengers who are children if a passenger or caregiver (or parent, if applicable) is not at the appropriate pick-up or drop-off point:
 - i. The Driver will radio the Contractor's dispatcher about the caregiver not being at home or at the scheduled drop-off location to receive the passenger, and remain on site until instructed by the dispatcher.
 - ii. The dispatcher will then contact the County's and The Center's Agent concerning the passenger or caregiver not being at the site. The Agent and the dispatcher will then confirm with each other information concerning alternate pick-up or drop-off locations.
 - iii. The Contractor's dispatcher will telephone the pick-up or drop-off location and, if there is no answer, will then call alternate pick-up or drop-off sites at telephone numbers previously provided to the Agent and the Contractor. The Driver shall make proper documentation of an alternate drop-off used for such a purpose.

- iv. Subject to C (i), above, during this time, the Driver shall continue on the route, and if phone contact with the passenger or caregiver, as appropriate, or with the alternate site is made, on the instruction of the Agent, the Vehicle will return to the applicable pick-up or drop-off location or alternate location. Subject to C (v), below, if the run is to drop-off a passenger, and no alternate drop-off site can be secured, the Driver will return the passenger to the Contractor's terminal for the caregiver to pick-up. After a reasonable time, not to exceed one (1) hour, in consultation with the Agent, the Contractor will contact the appropriate service described in section C (vi), below. In connection with the foregoing, appropriate off-hour telephone numbers will be provided to the Transporter for consultation purposes.
- v. If neither the primary nor any alternate caregiver can be located, then the Vehicle will return the passenger to the Vehicle's terminal or a local police station, taking into consideration proximity of location and ease of access to the location by the caregiver.
- vi. In the event that an appropriate person to receive the passenger cannot be located, the Agent will contact the appropriate County or Center department or the Child Protection Division or the Adult Protective Services of the CCDSS.
- vii. The Contractor will complete and submit to the County or the Center, as applicable an incident report in the form designated by the applicable of the County or the Center.

D. No-Shows:

- i. If a Vehicle arrives at the designated pick-up point and the Client does not present him or herself for the pick-up, or is not ready within five (5) minutes of the scheduled pick-up, then the passenger shall be deemed to be a "no-show."
- ii. If a passenger is a no-show, then the Driver will notify the Contractor's dispatcher immediately. The Contractor's dispatcher will thereupon telephone the home (or other pick-up location) and if there is no answer, immediately call the Partner's Agent.
- iii. The Contractor and the Partner's's Agent shall maintain a record of the number of times a passenger is a no-show, and the Contractor shall comply with policies promulgated by the Partners from time to time concerning no-shows.

- E. Cancellations: The Contractor and the Agent shall maintain telephone lines at all hours of dispatching and operation so as to enable the Agent and the Contractor to receive calls canceling scheduled trips. During hours in which dispatching and operations are not being conducted, the Contractor will either maintain an answering machine at the Contractor's premises, or employ an answering service, in order to ensure that calls canceling trips can be received and acted on so as to avoid no-shows. In most situations, trips must be canceled no less than two (2) hours before the scheduled pick-up time, however, two (2) hours is by way of example only, and is not determinative of whether a passenger is a no show. In the event that the Contractor is notified of a cancellation in sufficient time to stop the driver from going to the pick-up (regardless of whether or not two (2) hours notice is given), it will not be a no-show.

- F. The Contractor shall provide sufficient Vehicles to meet the service demands of the participating departments. Provision of sufficient Vehicles shall be determined by the Contractor's ability to provide on-time service.
- G. On-time service shall be defined as service within a fifteen minute window of the scheduled pick-up time *and* drop-off time.
- H. Passenger Volume/Peak Loads: It is understood that the number of passengers shown as requiring transportation may be amended at any time or times, and that it is the nature of the programs to be serviced pursuant to this procurement that the volume of passengers may increase or decrease at any time.

Emergency Drills

- I. Vehicles transporting Children with Special Needs shall meet all requirements of Section 3523 of the New York State Education law regarding emergency drills, including, but not limited to practice and instruction in the location, use and operation of the emergency door, fire extinguisher, first aid equipment and windows as a means of escape in case of fire or accident. Such instruction shall be given by the Contractor as required by law. A minimum of three (3) such emergency drills shall be held on all vehicles used in connection with the Services. The first will be conducted during the first week of the fall session, the second prior to January 1st, and the third prior to May 1st. In the event that a Vehicle is to be used in connection with Services during a summer session, an additional emergency drill will be conducted during the first week of that summer session.
- J. No emergency drills will be conducted while Vehicles are in route.
- K. In order to comply with the schedules of the various Facilities, the Contractor shall provide, at no additional cost to the Partners or either of them, that all Vehicles, Drivers and Driver Assistants will be available to conduct emergency drills at designated Facilities at a designated time other than regularly scheduled route times, for the purpose of completing the drills.
- L. The Contractor shall verify that each Vehicle, Driver, and Driver Assistant has complied with the emergency drill requirements. The verification will include the date, time and route number of each Vehicle.

Duties: Driver Assistants and Drivers

- M. It shall be the duty of a Driver Assistant, if assigned, to assist the Driver in the supervision of passengers for the duration of the route. For this purpose, the Driver Assistant shall sit in the appropriate place in order to fulfill supervision responsibilities.

- N. It shall be the responsibility of the Driver Assistant to assist passengers in embarking and disembarking safely from Vehicles. In the event that no Driver Assistant has been assigned, the Driver shall undertake this responsibility.
- O. The Driver and the Driver Assistant shall be able to properly read and understand a road map. The Driver Assistant, if assigned, must be able to assist the Driver with verbal directions.
- P. All Drivers and Driver Assistants shall present a neat appearance and must maintain a polite, professional and courteous attitude toward the public, Destination Facility personnel, parents and children, and all other passengers.
- Q. Each Driver and Driver Assistant will wear an appropriate ID badge at all times that they are on duty. The Agent may designate the form and format of the ID badge. If the Agent does not designate the form and/or format, then the ID Badge shall be as designed by the Contractor.
- R. All Drivers shall be responsible for current knowledge of approved Routes and approved changes to the Routes and for performing their Routes in accordance with such approved Routes and changes. In every event in which a Route change occurs, the Driver shall be responsible for acquiring from the dispatcher (or other designated Contractor official), at the earliest possible moment, updated driver directions.
- S. Drivers who are permitted to take vehicles home, whether overnight or at midday (between Runs), shall in every event check in with the dispatcher prior to the start of each Run, to ascertain whether there are any Route changes. Such check-in may be made by phone or radio.
- T. In accordance with State and local law, Drivers and Driver Assistants shall not smoke on Vehicles or in Facilities or on Facility grounds at any time, nor shall they permit passengers to smoke on a Vehicle. Drivers and Driver Assistants shall not eat or drink any liquid, be under the influence of a controlled substance or medication, or perform any act, or conduct themselves in any manner that may impair the safe operation of a Vehicle, while such Vehicle is transporting passengers.
- U. Drivers or Driver Assistants shall not disembark from the Vehicle when passengers are inside except to assist a passenger embarking or disembarking or in case of emergencies; and in such case before leaving his/her seat, the Driver shall stop the motor, leave the transmission in park, set the auxiliary brake, and remove the ignition key. Notwithstanding this, on Wheelchair Vehicles the motor must remain on in order that the lift will operate. Therefore, on such Vehicles, the Driver or the Driver Assistant may leave the Vehicle while the motor is running, but only to operate the lift and assist the wheelchair passenger on or off the Vehicle.
- V. Prior to the start of any route, all Drivers shall perform a “walk around inspection” of the Vehicle in accordance with the procedure established by the Agent.
- W. All Drivers or Driver Assistants shall perform a “post-trip” inspection of the vehicle in accordance with the procedure established by the Agent. The “post-trip” procedure must

be implemented at every Facility after every trip subsequent to unloading passengers, to ensure that articles have not been left on the Vehicle. Such a “post-trip” inspection shall also be performed before the vehicle is left at the transporter’s yard.

- X. As needed by the passengers, all Drivers and Driver Assistants are required to buckle and unbuckle car seats, safety vests, and passenger’s seat belts or harnesses.
- Y. No Vehicle shall be operated while a passenger is standing. In the event of a breach of this provision, the Driver shall be deemed to be operating the Vehicle in an unsafe manner.
- Z. Drivers shall admit and discharge only passengers authorized a Partner or the Agent and only at designated destination points. There shall be no unauthorized stops while passengers are on the Vehicle.
- AA. Drivers shall operate vehicles at safe and reasonable rates of speed.
- BB. A Driver or Driver Assistant shall *not* fill the Vehicle’s gas tank while passengers are on the Vehicle. A breach of this provision shall be deemed to be included in “the operation of a vehicle in an unsafe manner.”
- CC. Each Driver of a Vehicle shall be responsible for the complete control of his/her Vehicle and the passengers being transported therein. It shall be the responsibility of the Driver to maintain good order on Vehicles. Notwithstanding this, in no event shall any Driver or Driver Assistant, in the performance of their duties, treat any passenger roughly.
- DD. Drivers and Driver Assistants shall not permit their passengers to have heads or arms out of open windows. In the event a Driver or Driver Assistant observes such activity, he/she shall immediately take appropriate corrective measures.
- EE. All Drivers and Driver Assistants shall immediately report to their supervisors any unusual incident that occurs or is observed by them during the course of providing Services hereunder, and/or, in accordance with the following subsection titled “Accidents,” any accident that occurs while transporting passengers to or from destination Facilities. In the event of an incident, the report shall be made no later than the completion of the run during which such incident occurs. In the case of an accident, such report shall be made immediately by means of the telecommunications equipment on the Vehicle. In the event such report is made by means of the telecommunications equipment on the Vehicle, it will be immediately transcribed. As a result, all statements mentioned in this paragraph must be in writing and signed by the Driver (and/or Driver Assistant) and a supervisor.
- FF. In connection with the foregoing, it shall be the obligation of each Driver and Driver Assistant to immediately report any mistreatment of a passenger to the Contractor and to the Partners or the Agent. Failure to promptly report such an incident shall be grounds for the removal of a Driver and/or Driver Assistant from the performance of the Services.
- GG. The Transporter shall instruct Drivers and Driver Assistants, if applicable, that in the event they are requested to transport a passenger’s medication to or from Destination Facilities, they are to comply. Such medication shall be carried in a sealed container, and must be in the possession of the Driver or Driver Assistant at all times during transit and kept in a location that is not accessible to any passenger. Upon conclusion of the trip during which

the request was made, the Driver or Driver Assistant shall report the request to his/her supervisor. Under no circumstances shall medication to be administered to any passenger by a Driver or Driver Assistant.

- HH. Drivers and Driver Assistants shall comply with the requirements of the master plan for procedures and communications in the event of snow and emergency days, destination Facility closings, early dismissals, caregivers not at home, alternate drop-offs, vehicle emergencies and other potential catastrophic weather concerns.
- II. As an alert to the possibility that a run might be excessive in either mileage or in time, Drivers and/or Driver Assistants must notify their supervisor when the riding time for any passenger exceeds ninety (90) minutes, subject to a fifteen (15) minute tolerance based on circumstances such as unusual traffic and weather conditions. The Transporter shall immediately notify the Agent of such occurrences.

Accidents

- JJ. The Agent will provide the Contractor with accident and emergency procedures to be followed by Drivers, Driver Assistants and staff. Prompt communication to the Agent (AS, IF THE Agent so instructs to the County and/or the Center), parents or caregivers, if applicable, and destination Facilities is of the essence of the contract to be entered into hereunder. For all accidents occurring while Clients are on board, or in connection with passengers boarding or leaving a Vehicle, and all other accidents or incidents involving Routes, the following procedures shall be followed:
 - i. When the severity or nature of the accident requires or when emergency services are required for passengers and/or the driver or passengers of another vehicle, the driver or dispatcher shall contact 911 and request police and ambulance service. Notwithstanding this, any time an accident occurs while passengers authorized by the Partners are on board, the Transporter shall ensure that the police are called to the scene.
 - ii. The Contractor shall immediately notify the Agent and the destination Facility of the location, extent of the accident, the names of the passengers involved, and a description of the accident/injuries.
 - iii. The Contractor shall provide all information, as requested by the Partners (or either of them) and/or the Agent, to those caregivers, destination Facilities and agencies concerning accidents and other emergencies.
 - iv. The Contractor shall prepare accident/emergency reports for the New York State Department of Motor Vehicles, New York State Department of Transportation, New York State Department of Education, the County, the Center, and the Agent within twenty four (24) hours, utilizing approved State and/or County forms.
 - v. The Contractor shall secure a copy of the police report with respect to the accident, and shall promptly provide a copy to the Agent.

Materials to Be Carried on Vehicles

KK. The Contractor shall provide all Drivers with the following: map-books of Cattaraugus County and adjacent counties containing: route sheets with passenger names, addresses, phone numbers and emergency phone numbers, appropriate forms for noting whether scheduled passengers have been present on the run, and “left/right sheets” with specific route locations and times from first pick-up to the last scheduled drop-off. All drivers and routes will receive revisions to map-books and directions as changes occur. The foregoing material shall be present on the Vehicles at all times. The Contractor shall provide copies of the above mentioned materials to the Agent for their records and approval.

Confidentiality

LL. Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) all information concerning the passengers transported, including, but not limited to such passengers names and addresses, is “protected health information” (“PHI”). Drivers, and Monitors, and members the transporter’s staff who have access to such information shall receive training in maintaining the absolute confidentiality of PHI.

MM. The Contractor shall also abide by the requirements of confidentiality of client’s records as provided under the Family Education Right and Privacy Act (FERPA) and the Individual with Disabilities Education Act (IDEA) when disseminating information to drivers and driver’s assistance and other staff.

NN. For the purposes of clarity, neither Drivers, Driver Assistants, nor any other member of the Transporter’s staff will discuss or disclose any confidential information concerning the passengers with any other party without prior written consent of the passenger or caregiver as appropriate, a supervisor *and* the County or the Center, as applicable. For the purposes of this paragraph, confidential information shall include, but not be limited to:

- i. The names of passengers and the Facilities any passenger attends; and
- ii. Information received for the purpose of increasing awareness of a behavioral problem or medical condition, which information is needed to assure the safety and welfare of a passenger (“safety/welfare information”). Notwithstanding the foregoing, in the event a parent or caregiver provides safety/welfare information to a Driver or Driver Assistant, such information will be immediately communicated by the Driver and/or Driver Assistant to the Transporter’s dispatcher.

Record Keeping

OO. All Drivers and Driver Assistants shall cooperate in any record keeping systems established by the Partners. All Drivers and Driver Assistants shall be required to complete transportation forms regarding mileage, passengers, attendance, Route time between stops, and all other forms as shall be stipulated by the Agent from time to time during the contract period or any extensions thereof. To assure the accuracy and currency

of such records, recording shall occur at the beginning or completion of each Route Segment, as appropriate.

- PP. The Partners require prompt notice of any extended passenger absences from scheduled runs. For the purpose of this paragraph, “extended absences” shall be absences of three (3) or more consecutive days. The Contractor shall cooperate in establishing a procedure for the taking of attendance on each run, and for reporting absences and extended absences promptly. The Contractor shall utilize the forms created by the Agent shall for this purpose, and shall complete all entries required in such forms.
- QQ. Drivers and/or Driver Assistants shall submit daily attendance records to their supervisor on a weekly basis for submission to the Agent. If the Driver or Driver Assistant knows or suspects that a passenger has moved, or that a passenger no longer requires transportation, then this information shall be included on the attendance records, and the Contractor shall promptly notify the Partners or Agent in accordance with the procedure established by the Partners or Agent.
- RR. A log of odometer readings indicating the reading at each pick-up point and each drop-off point, shall be maintained by each Driver of each Vehicle. Such logs shall be in a format determined by the Partners or the Agent. Such logs shall be submitted in support of each invoice for Services presented by the Transporter. In the event that such log is not presented in support of the invoice, the invoice will not be paid.

VI. PERSONNEL REQUIREMENTS

A. Before the start of employment:

- i. All Drivers shall have a Class A, B or C NYS license with a Passenger (P) and (S) CDL endorsement. Drivers will be appropriately licensed for the type of Vehicle being driven.
- ii. In accordance with the provisions of New York State Social Services Law Section 424-a, the Contractors shall screen all Drivers and Driver Assistants through the child abuse registry, and the Contractors shall maintain a record of submissions and clearances.
- iii. In accordance with the requirements Section 633.5 (vii) (8) of the OMRDD Mental Hygiene Law, Chapter 575 of the Laws of 2004, and other applicable laws, each driver and monitor will provide information, statements and fingerprints as may be necessary for a criminal history record check (including, without limitation any sexual offences) and the Contractors shall maintain a record of such information.
- iv. Wherever in (ii) and (iii) above a record of “abuse” or “criminal history” is referred to, it shall include, without limitation, any plea(s) to such a charge.
- v. The specificity of laws and/or regulations in connection with required background checks is by way of example, but not in limitation of the requirements cited or any

additional requirements in other applicable laws or regulations. For the purpose of clarity, notwithstanding such specificity, the Contractor will comply with all requirements of applicable laws as if they were specifically mentioned herein.

- vi. A list of all certified Drivers and license numbers, license class and endorsements, license expiration date, a list of all their accidents and violations incurred in the past three (3) years, and all material submitted to and/or received by the Transporters with respect to criminal, abuse, and other background checks, will be retained by the Transporters and provided to the Partners or its Agent on request. Such list shall be updated upon each and every change.
- B. In accordance with 18 NYCRR Section 505.10 (Transportation For Medical Care and Services) of the New York State Department of Health Rules and Regulations, Contractors that provide transportation to day treatment or continuing treatment programs must be authorized by the Department of Transportation. Drivers for such Contractors must be qualified under Article 19 of the Vehicle and Traffic Law and all other regulatory requirements. Such Contractors and their Drivers must comply with all requirements of the New York State Department of Transportation and the New York State Department of Motor Vehicles or have a statement in writing from the appropriate Department or Departments verifying that the Contractors or their Drivers are exempt from such requirements.
 - C. Drivers shall receive the amount of behind the wheel defensive training required from time-to-time by applicable statute and/or regulation, and such training shall include classroom instruction. Such defensive training is highlighted because of the nature of the Services and the passengers to be transported, and is therefore “of the essence” in any agreement between the Contractor and the Partners.
 - D. Training as required by Article 19A of the New York State Vehicle and Traffic Law or regulations, shall be provided by the Contractor to the Drivers and Driver Assistants as required by such regulations.
 - E. The Contractors shall ensure that the Drivers and Driver Assistants provide the Partners with safe transportation. In connection with this, Contractors shall ensure that the Drivers and Driver Assistants, as applicable, meet the following minimum qualifications:
 - i. No moving violations during the past twelve (12) months.
 - ii. Even if there is no violation within the past twelve (12) months, there is no more than one (1) moving violation during the past five (5) years.
 - iii. Under no condition will an applicant be accepted as a Driver or Driver Assistant if he or she (a) has been convicted of a felony; or (b) has been convicted of a drug or alcohol offense; or (c) if there has been a finding of child abuse/maltreatment based on a submission of the individual’s name to the New York State Child Abuse Registry.
 - iv. The Contractor shall maintain records concerning the Drivers’ and Driver Assistants’, as applicable, qualifications and clearances with respect to the matters described in sections (i) through (iii) above.

- F. A written record from the New York State Department of Motor Vehicles with respect to any given driver must be promptly submitted to the Partners or its Agent on request.
- G. At the County's option, each Driver Assistant providing Services shall be required to attend not less than two (2) two-hour, nor more than five (5) two-hour training sessions per year specifically concerning the special needs of preschool handicapped children. The Contractor shall be responsible for ensuring that each Driver Assistant attends required sessions, and shall provide the County with an acknowledgement of attendance at such session(s). The County may employ a person or firm to provide such training, and if this is done, the Contract shall ensure the attendance of all Drivers and Driver Assistants at no cost to the County.
- H. At all times during the Term of the Contract, all Drivers shall be at least twenty-one (21) years of age, and Driver Assistants shall be at least eighteen (18) years of age.
- I. All Drivers and Driver Assistants shall be examined by a physician prior to operating/attending a vehicle in the performance of Services hereunder. An examination to determine the physical condition of each Driver and Driver Assistant shall be reported by the physician. With respect to the Drivers, the physician shall report the result of the physical on a form prescribed by the Commissioner of Education that complies with the requirements of Article 19A of the VTL, with the requirements of 8 NYCRR Section 156.3 of the regulations of the Commissioner of Education, and, as required, with Department of Transportation regulations. With respect to the Driver Assistants, the result shall be reported to the Contractor. Physicals shall include a standard Mantoux Skin Test, and chest x-ray if indicated, for tuberculosis (a Tine Test is not acceptable). In no instance shall the interval between a Driver's or a Driver Assistant's physical examinations exceed thirteen (13) months. The Transporter shall provide a copy of Sections 6-11 and 6-12 of the regulations under Article 19A of the VTL, to all physicians used for employees' physicals. On request, the Transporter shall provide the Partner or the Agent with proof of compliance with the foregoing with respect to each Driver and Driver Assistant.
- J. The Contractor will ensure that it receives periodic reports from the local police department and/or State and/or Federal law enforcement agencies concerning the lack of convictions of Drivers and Driver Assistants for felonies or child or other abuses. Such reports shall be received by the Contractor no less than annually. Notwithstanding this, the Partner or Agent reserves the right to reject or require replacement of Drivers or Driver Assistants who are provided by the Contractor for any reason, without being limited to considerations of social and driving records.
- K. The Contractor shall register the appropriate Departments of the Partners with the NYS Department of Motor Vehicles' Driver Certification Unit as a contract holder.
- L. All Driver and/or Driver Assistant records described in this section shall be maintained by the Contractor and shall be made available for inspection by the Partners or their Agent, and/or copies of such records shall be made and submitted to the Partners or their Agent within ten (10) days of receiving a request therefore, except for those items where a sooner response is required by the IFB.

- M. The Contractor shall ensure that each Driver and each Driver Assistant providing Services under this IFB are certified in CPR and First Aid. Such certification shall be at the sole cost and expense of the Contractor. All Drivers and Monitors shall carry their CPR Certification Card with them at all times that are on a Vehicle providing service to the county.
- N. Medicaid Clearance: No less than once each month, the Contractor shall search the three Medicaid exclusion databases to ensure that no member of its staff who is responsible for accounting and/or invoicing for Contractor's services is included on such list.

Such lists are: Office of Inspector General. UD Dept. of Health and Human Services (<http://exclusions.oig.hhs.gov>); Excluded Parties List System (<http://www.epls.gov>); New York State Office of the Medicaid Inspector General (<http://www.omig.ny.gov>).

Grounds for Removal of a Driver and/or Driver Assistant from Service to the Program

- A. For the avoidance of doubt, under the following circumstances the Driver and/or the Driver Assistant, as applicable, *shall* be removed from service to the Program. The following list is for the convenience of the bidders, but is not by way of limitation of the grounds for such removal.
- i. Each time a Driver is found guilty of committing a moving violation of the New York State Vehicle and Traffic Law while transporting passengers hereunder.
 - ii. Each time a Driver and/or Driver Assistant is found to have used corporal punishment on a passenger, or in any other manner mistreated a passenger.
 - iii. Each time that a passenger is left unattended on a Vehicle.
 - iv. Each time a passenger has been delivered to an incorrect or unauthorized drop-off location or destination Facility.
 - v. Each time a sleeping child is found to be on a Vehicle after a "post trip" inspection should have been conducted (i.e. the "post-trip" inspection was not properly conducted as required herein).
 - vi. Each time there is a failure to deliver a passenger to the correct drop-off location or destination Facility as scheduled (with allowances for traffic, weather or other unavoidable conditions).
 - vii. Each time a Driver fails to maintain complete control of a Vehicle and/or operates a Vehicle in an unsafe manner.
 - viii. Each time a Driver operates a Vehicle under the influence of a controlled substance.

VII. LIQUIDATED DAMAGES

In view of the difficulty the Partners and passengers shall suffer by reason of defaults in the performance of the Service required hereunder on the part of the Contractor and its employees, staff and personnel, the following monetary sums are hereby agreed upon, fixed and determined by the parties thereto as “Liquidated Damages” that fairly represent the damage the Partners will suffer by reason of such violations of the contract to perform the Services and not by the way of penalty. Such Liquidated Damages may be imposed upon the findings of the Agent that a provision of the contract has been violated.

It is the intent of the Partners to provide passengers with safe and effective Transportation Services at all times and, in addition, to work cooperatively and reasonably with responsible Contractors. The Partners shall consider unusual circumstances regarding break-downs or delays when considering the question of Liquidated Damages. Appeals for disputes arising as to the assessment of violation(s) will be heard by the County Administrator, whose decision shall be final and binding.

It is the intent of the Partners to provide passengers with safe and effective Transportation Services at all times and, in addition, to work cooperatively and reasonably with responsible Contractors.

Prior Warning: Notwithstanding the specific provisions for liquidated damages below, the Partners and the Agent shall at all times act fairly and shall consider unusual circumstances concerning, among other things, break-downs or delays when considering whether Liquidated Damages should be imposed. In this regard, if it is determined that an act or omission concerns a technical matter and does not place a passenger in danger or risk liability to the County or the Center, a “warning” for a first offense may be issued. In the event that a Contractor is to be notified of an act or omission, such notification will be made within forty-eight (48) hours of the finding of such act or omission.

Liquidated Damages may be assessed for every vehicle, for every day, and for every instance of the violation in the monetary amounts as noted in the following:

- A. The full cost of the Vehicle Daily Rate shall be deducted from subsequent payments due the Contractor for each day on which the following violations occur:
 - i. Each time there is a failure to provide Transportation Services on a day on which destination Facilities are required to be open in accordance with the official calendar or subsequent changes thereto.
 - ii. Each time there is a failure to conform to the arrival and dismissal schedules and session times of the Destination Facilities, as such information is provided by the a Partner or the Agent.
 - iii. Each time there is a failure to adhere to any special schedules or shortened and lengthened schedules of the destination Facilities to be serviced.

- iv. Each time there is a failure to provide all of the Vehicles and Services needed to do all of the work contracted for.
- v. Each time there is a failure to comply with the applicable regulations of the New York State Departments of Education, Transportation and Motor Vehicles as well as with any and all laws and regulations of any agency of the Federal Government, State of New York, County or local regulations applicable hereto.
- vi. Each day on which a Vehicle is operated using recapped or regrooved tires;
- vii. Each time there is a failure to comply with the Vehicle, Driver and/or Driver Assistants requirements as set forth herein.
- viii. Each time there is a failure of any Vehicle to have a current and effective New York State DOT certificate, if required.
- ix. Each time there is an assignment of any Driver and/or Driver Assistant to perform Services hereunder, who has been disqualified by the State, County, Center, or Agent in this or any other jurisdiction.
- x. Each time a Driver is found guilty of committing a moving violation of the New York State Vehicle and Traffic Law while transporting passengers hereunder.
- xi. Each time a driver allows a passenger to enter or leave the Vehicle while it is in motion.
- xii. Each time a Driver and/or Driver Assistant is found to have used corporal punishment on a passenger, or in any other manner mistreated a passenger. In addition, the Driver and Driver Assistant (if assigned to the Vehicle) shall be dismissed immediately.
- xiii. Each time that a passenger is left unattended on a Vehicle. In addition the Driver and/or Driver Assistant shall be dismissed immediately.
- xiv. Each time a passenger has been delivered to an incorrect or unauthorized drop-off location or destination Facility. In addition, the Driver and/or Driver Assistant shall be dismissed immediately.
- xv. Each time a sleeping child is found to be on a Vehicle after a “post trip” inspection should have been conducted (i.e. the “post-trip” inspection was not properly conducted as required herein). In addition, the Driver and Driver Assistant shall be dismissed immediately.
- xvi. Each time there is a failure to deliver a passenger to the correct drop-off location or destination Facility as scheduled (with allowances for traffic, weather or other unavoidable conditions). In addition, the Driver and/or Driver Assistant shall be dismissed immediately.

- xvii. Each time an unauthorized individual is transported by the Driver and/or Driver Assistant when a vehicle is being utilized for Service hereunder, whether or not same is approved or known by the Contractor.
- xviii. Each time there is a failure to follow procedures for reporting incidents, accidents and/or emergencies as set forth herein.
- xix. Each time there is a failure to report immediately to the destination Facility administration and the Partners or Agent any incident involving physical harm to a passenger.
- xx. Each time a Driver operates a Vehicle in service hereunder when he/she has not received the proper training, instructions and/or courses as specified herein within the specified time periods.
- xxi. Each time there is a failure by the Contractor to provide, as required hereunder, the required medical certificate, fingerprint record, driving record (abstract), Child Abuse Registry clearance, reference letters, applications for employment and other data when requested.
- xxii. Each time a Driver and/or Driver Assistant allows a passenger to continue an unsafe or dangerous act while on a Vehicle.
- xxiii. Each time there is a failure by the Contractor to service each designated pickup or drop-off on a Route.
- xxiv. Each time there is a failure to utilize a Vehicle that meets the standards and requirements set forth herein and all applicable State and local laws and regulations.
- xxv. Each time a Driver fails to maintain complete control of a Vehicle and/or operates a Vehicle in an unsafe manner. In addition, the Driver shall be removed from the program.
- xxvi. Each time a Driver operates a Vehicle with under the influence of a controlled substance. In addition, the Driver shall be removed from the program.

B. One-half the cost of a Vehicle Daily Rate may be deducted from subsequent payments due the Transporter for each day on which the following violations occur:

- i. Each time there is a failure by the Contractor to dispatch spare Vehicles and/or provide road service within the time frames herein provided.
- ii. Each time the Contractor provides Services with a Vehicle that does not have an operable two-way radio communications set or mobile/cellular phone.

- iii. Each time there is a failure by the Driver and/or Driver Assistant to properly complete the daily attendance sheets or a failure of the Contractor to deliver attendance information to the County or the Agent in the form and format required and at the time parameters set forth herein.
- iv. Each time there is a failure of the Driver to wait for a passenger at the pick-up point until five (5) minutes after the scheduled pick-up time.
- v. Each time there is a failure of a Driver to be familiar with the Vehicle and Traffic laws, regulations of the Commissioner of Motor Vehicles or other laws or regulations pertaining to passengers transported hereunder.
- vi. Each time there is a failure by the Contractor to provide new Services to a passenger within the time parameters provided herein, or otherwise agreed to with the County or Agent.
- vii. Each time there is a failure by the Contractor to comply with The Partner's or Agent's authorized changes to a route including additions or deletions of stops. This includes additions or deletions to Runs or Routes.
- viii. Each time a Driver and/or Driver Assistant makes an unauthorized stop or smokes on a Vehicle, in a Facility or on Facility grounds. This provision shall apply whether or not children are present at the time of the infraction.
- ix. Each time a Vehicle is not equipped with a fire extinguisher, safety kit, and seat belt cutter.
- x. Each time there is a failure by the Contractor to ensure that the Vehicle interior and exterior are both clean.
- xi. Each time there is a failure by the Contractor to provide to the Partners and/or the Agent as, and in the time parameters prescribed hereunder.
- xii. Each time a child's head or arm are outside the Vehicles window and the Driver or Driver Assistant fails to take immediate appropriate corrective action to correct the situation.

C. In the event that appropriate communications arrangements as discussed in this IFB, are not made available by the Contractor, and in the event that information is not passed between the parties as a result, the failure to receive the necessary information will not be considered a reason for the failure to perform an obligation on the part of the Contractor. By way of example, and not in limitation of the foregoing, in the event a change of address of a passenger is to become effective, but because the Contractor has failed to provide adequate arrangements for the exchange of FAX's, and because of this the address change cannot be implemented on time, it will be as if the Contractor had not provided transportation as scheduled, and liquidated damages will be assessed on that basis.

- D. Nothing herein shall limit the right of the Partners to declare the Contractor in default of his agreement in advance of, in lieu of, or in addition to the assessment of Liquidated Damages.

VIII. INSURANCE REQUIREMENTS (INSURANCE REQUIREMENTS FOR THIS CONTRACT IS CATTARAUGUS COUNTY CLASSIFICATION “F”)

- A. Each bidder must have the following minimum coverages. If a bidder’s policy does not strictly comply with these insurance specifications, then he/she must submit a Certificate of Insurance verifying that coverage meets or exceeds the following:

Comprehensive General Liability – \$2,000,000 aggregate; \$1,000,000 per occurrence.

Automotive Liability Insurance - Primary coverage of \$500,000.00 for each person and \$1,000,000.00 for each accident.

Property Damage - \$2,000,000 aggregate; \$1,000,000 per occurrence.

Excess Umbrella Liability Coverage - \$3,000,000.00.

- B. Cattaraugus County and the Center shall be named as “additional insureds” on all Certificates of Insurance. These Certificates shall be provided by the Successful Bidder within ten (10) business days following the date of notification of award. There must be a certification attesting that the policy will not be canceled or allowed to expire without sixty (60) days prior notice to the County and the Center. Insurance certificates must show the expiration date of the policy. The policy should cover the duration of the entire term of the Contract. The Successful Bidder shall provide both the County and the Center with a copy of all relevant policies.
- C. The Successful Bidder will take out and maintain, during the life of this contract, adequate Workers’ Compensation Insurance and Disability Insurance at not less than the statutory rates, for all employees who will be engaged in work under this contract in compliance with the Workers’ compensation Law of the State of New York, and the New York State Disability Benefits law, respectively. A copy of these policies shall be submitted to the County and to the Rehabilitation Center prior to the onset of the contract.
- D. Submission of the “Acord Form” as proof of this insurance coverage is insufficient. As proof of the Workers’ Compensation Insurance the successful bidder shall file the “C-105.2 Form,” and with respect to Disability, the successful bidder shall file the “DB-120.1 Form” with the Clerk to the County Legislature, and with the Rehabilitation Center. Providing such certificates, and maintaining such filing as current, is a predicate to the County’s obligation to make payments to the Contractor.
- E. With regard to the Center-Owned Vehicles, as such term is defined above, the successful bidder shall undertake to the obligation to, and shall secure insurance on behalf of itself and the Center, in the amounts set out in Paragraph A of this Section VIII. The successful bidder shall provide the required proof of insurance to the County and to the Rehabilitation Center with respect to same.

IX. FUEL

- A. Fuel for The Center-Owned Vehicles will be provided by the Center; Fuel for Vehicles owned by the Contractor shall be secured and paid for by the Contractor the Contractor.
- B. Fuel Surcharge for Contractor-owned vehicles:
- i. In the event that, during any given quarter annual period of the Term of the Contract, the price of fuel rises by twenty-five (25%) or more above the price charged on the first day of the term of the Contract (as measured by the price for Diesel-2D REG as shown in the NYS OGS Fuel Contract Price Listing), then during the following quarter annual period a surcharge of five dollars (\$5.00) will be deemed added to the price of an 8-hour Vehicle bid by the Successful Bidder.
 - ii. Such five dollar (\$5.00) increase shall be prorated for Contractor-Owned Vehicles thatr are utilized for 2-, 4-, and 6-hours a day.
 - iii. In the event that in the next and/or subsequent quarter annual period the cost of fuel remains at the level of a 25% increase (or more), fuel surcharge will continue during that quarter annual period. In the event that during the next and/or any subsequent quarter annual period the price of fuel is reduced below the 25% increase level, the fuel surcharge will be deleted.
 - iv. In order to accommodate the foregoing fuel surcharge formula, the Agent will review the cost of fuel on a quarter annual basis, and will advise the Contractor of the result of the review.

X. FINANCIAL

- A. A \$500 Bid Bond WILL BE REQUIRED. The bid bond may be in the form of a cashiers check or a certified check. Nothing herein will be construed as waiving the requirements of the General Municipal Law or other State or local statutes requiring that bids cannot be withdrawn during the specified period after the bid opening.
- B. A \$10,000 Performance Bond in the form of a cashiers check or certified check WILL BE REQUIRED of the Successful Bidder(s). This check must be made payable to Cattaraugus County. This check may be deposited by the County. The funds so deposited will be retained by the County during the term of the Contract. At the expiration of the term, if the Successful Bidder has performed under the terms of the Contract to the satisfaction of the County and The Center, then the funds will be returned to the Successful Bidder(s), without interest.
- C. Contractors must bill the County's departments on County vouchers for each Monthly Vehicle Cost as applicable, and shall bill the Center on the Center's vouchers, if applicable. In connection therewith:

- i. The Agent will instruct the Contractor as to the manner in which the Contractor's invoices for its services are to be divided between the Center and the individual departments of the County, and the Contractor shall issue its invoices in accordance with such instruction.
 - ii. The successful bidder shall submit Attendance Sheets by week at the conclusion of each month showing the following:
 - a. Program Provider served
 - b. Attendance Record, days on which passengers attended programs, address and time of first pick-up and last drop-off and/or such other information as the County and The Center might require from time to time. (not applicable with respect to Medicaid Transportation).
 - c. The transporter is responsible for ensuring that each driver attendance log is completed and signed in accordance with the County's and The Center's instructions.
 - d. Payment shall not be made to the transporter until all Driver Attendance Logs submitted are correct.
 - iii. Attendance Sheets for a given month must be submitted no later than the fifth day of the following month.
 - iv. In the event that the County or The Center prescribes a form or format for the invoicing of the Contractor's Services, the Contractor shall comply with such requirements. In the event such invoice is not on the prescribed form or in the prescribed format, such invoice(s) shall not be paid until such invoices meet such requirements.
- D. The sheets giving the above information shall be sent, along with vouchers, to the County, and the Center as instructed by the Agent. However, at the Agent's request, the foregoing information shall be provided prior to the submission of the Contractor's invoice and voucher.
- E. All invoices with respect to Services shall be presented not later than fifteen (15) days after close of the month during which such services were performed. Invoices not presented within such time frame shall not be paid.

XI. PAST PERFORMANCE

In the review of all bids, past performance will be considered in making the final selection of Contractors. Before final bid awards are made, the County and/or the Center will conduct a performance review on any bidder likely to receive a bid award.

XII. BID IN EXCESS OF CURRENT CONTRACT COST

The Partners reserve the right to reject all bids in the event that the bids received all exceed the current contract cost. In addition and notwithstanding the awarding of a contract, in the event that it is in the best interest of the Partners or either of them, one or more passengers who would be scheduled to be transported by a Successful Bidder may be transported by means of vehicles owned or leased or otherwise contracted for by the County or the Center.

XIII. CORPORATE COMPLIANCE POLICY

The County has adopted a Corporate Compliance Policy, a copy of which is available from the County Administrator's Offices in Olean and Little Valley, or the County's web site at: ww2.cattco.org. By submitting a bid, the Contractor certifies that it has reviewed the standards of conduct and policies and procedures in the Corporate Compliance Policy. The Contractor shall require compliance with such standards of conduct and policies and procedures by all who provide services to the County on behalf of the Contractor.

XIV. MISCELLANEOUS

- A. The Contractor warrants that it is an independent contractor and is not in any way to be deemed an employee or agent of the Partners.
- B. The Contractor agrees that it will at all times defend, indemnify and hold the County, the Center, and/or their agents, and their respective officers, employees, and agents harmless and free and clear of any and all loss and/or liability arising out of or connected with any act or omission or commission by the Contractor, its officers, servants, agents or employees with respect to any matter to which this IFB relates.
- C. The Contractor shall not assign, transfer or subcontract, wholly or partially, the contract entered into as a result of its submission of this bid, or any of its rights or obligations arising out of or under such contract, to any person, firm, association or corporation, without the prior written consent of the Partners, which consent may withheld for any reason.
- D. **STATEMENT OF CONFIDENTIALITY:** The transportation bid sheets contained in this bid packet include information which is considered "confidential" under Federal and State regulations and should be utilized for the purpose of transportation services of the Partners. Bidders' interest in this material is solely for the purpose of preparing bids and/or providing transportation services to passengers of the Partners. Be advised that the Health Insurance Portability and Accountability Act (HIPAA) Business Associate Agreement the Successful Bidder will execute includes provisions for handling this information as well as actions that can be taken by the Partners in the event of non-compliance.

Appendix B

BID FOR PERFORMANCE OF CONTRACT WITH CATTARAUGUS COUNTY LEGISLATURE LITTLE VALLEY, NEW YORK

TO: Cattaraugus County Legislature, Little Valley, New York, hereinafter called the County.

The undersigned, desiring to interpose a bid to provide services for VAN SERVICE, for Cattaraugus County, does hereby accept all terms, conditions, and agreements contained and set forth in the Public Notice, General Information, Additional Terms and Conditions, Material to be Submitted, Minimum Specifications, Non-Collusive Bidding Certification, Legal Status Information and Bid for performance of Contract with Cattaraugus County Legislature and does hereby certify and propose as follows:

The undersigned declares that he/she has examined all of the attached documents, and hereby proposes and agrees that, if this bid is accepted, he/she will contract with the County, such contract incorporating the provisions of the documents attached hereto, to furnish all the materials and services and do all the work specified in the attached documents in the manner and time herein specified and according to the requirements as herein set forth, and to take in full payment therefore the bid prices set forth on the following specification sheets.

If this proposal is accepted by the County and the undersigned fails to contract as aforesaid, within ten days (not including Sunday) from the date of notice from the County to him/her, then the County may at its option, determine that the bidder has abandoned his/her right to enter into the contract and thereupon the bid and acceptance shall be null and void.

The full name and residences of all persons and parties interested in the foregoing bid as principals are as follows: (Individuals or partnership bids only)

INDIVIDUAL, PARTNERSHIP OF CORPORATE USE

The undersigned certifies, under penalty of perjury, that he is fully authorized to sign this bid.

Name and Address of Bidder:

Authorized Signature and Title

_____ Signature
_____ Title
_____ Date

Appendix C
LEGAL STATUS INFORMATION

To facilitate correct drawing and execution of a contract, bidder shall supply full information concerning legal status:

FIRM NAME: _____

PRINCIPAL OFFICE:

Street _____

City, State, Zip _____

Area Code _____ Telephone _____

LOCAL OFFICE:

Street _____

City, State, Zip _____

Area Code _____ Telephone _____

CONTRACT TO BE SENT TO: _____

Principal Office _____ Local Office _____

CHECK ONE:

Corporation _____

Partnership _____

Individual _____

(Incorporated under the Laws of the State of _____)

(If foreign corporation, state if authority to do business in the State of New York:

Yes _____ No _____ Not Applicable _____)

TRADE NAMES: _____

NAMES AND ADDRESSES OF PARTNERS:

_____	_____
_____	_____
_____	_____

NAME, TITLE, AND ADDRESS OF PERSON AUTHORIZED TO SIGN CONTRACT ON BEHALF OF BIDDER:

Name: _____

Title: _____

Address: _____

PLEASE TYPE OR PRINT

Appendix D

The following statement must be subscribed by the bidder and affirmed by such bidder as true, under penalties of perjury.

Pursuant to Section 103-d of the General Municipal Law.

NON-COLLUSIVE BIDDING CERTIFICATION

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;

Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

No attempt has been made by the bidder to induce any other person, partnership, or corporation to submit or not to submit a bid for the purpose of restricting competition.

(for use of individual bidder)

IN WITNESS WHEREOF, I, _____, doing business under the style and name of _____ at _____ have hereunto subscribed my name under the penalties of perjury at _____ on this ____ day of _____, 19__.

d/b/a _____

(for use of partnership bidder)

IN WITNESS WHEREOF, this non-collusive bidding certification has been subscribed, under penalties of perjury, at _____ on this ____ day of _____, 19__, by

_____ one of the partners or co-partners of the partnership composed of _____ and _____

Doing business under the style, partnership and firm name of _____

At _____.

Partnership Name

By _____

Co-Partner

(for use of corporate bidder)

RESOLVED, that _____ (name of corporation) be authorized to sign and submit the bid or proposal of this corporation for the following project _____

_____ and to include in such bid or proposal the certificate as to non-collusion required by Section 103-d of the General Municipal Law as the act and deed of such corporation, and for any inaccuracies or misstatements in such certificate, this corporate bidder shall be liable, under the penalties of perjury.

The foregoing is a true and correct copy of the Resolution adopted by _____
Corporation at a meeting of its board of directors held on the _____ day of _____, 19____.

Dated at _____ on this _____ day of _____, 19____.

(SEAL OF THE CORPORATION)

Secretary

Name of Bidder

Appendix E

1. Information for Bidders

A. OVERVIEW

The County, The Center, and The agent intend to evaluate the need for either an increase or decrease in the number of Bus Runs or Vehicles based on transportation service coordination opportunities with any or all departments in Cattaraugus County and The Center.

These adjustments to the number of bus runs will be the result of two routing principles—specifically, the commingling of County and Center passengers, and the maximization of the use of these commingled vehicles as the result of route optimization.

i. Commingling

There are two plausible scenarios when implementing the commingling of passengers requiring transportation between. The Center and Cattaraugus County. This commingling function is designed for better utilization of vehicles so as to avoid creation of additional runs that could lead to more vehicles being added:

- a. County Passengers can be assigned to Center runs, which may result in the number of County runs being reduced.
- b. Center passengers for the can be assigned to County runs, which may result in the number of Center runs being reduced.

i. Vehicle (Route) Optimization

The maximization of a vehicle's potential usage (or minimizing vehicle idle time) throughout the day by increasing the number of runs being assigned to a given vehicle (route). This is done by taking into consideration vehicle idle time, vehicle capacity, and distance traveled (including deadhead time—i.e. non-“Loaded Vehicle Hours”).

B. PRINCIPLE DEFINITIONS AND ASSUMPTIONS FOR CATTARAUGUS COUNTY AND CATTARAUGUS REHABILITATION CENTER (“THE CENTER”) BID

- i. **DEFINITIONS:** In addition to the definitions set out in Section III, above, the following words and phrases shall have the designated meanings; provided, however, that in the even of a discrepancy with a definition in said Section III, for the purpose of this Appendix E, the following definition shall govern.

- a. “Center-Owned Vehicles”: The Center-Owned Vehicles are as shown on page 50 below (“Rehabilitation Center Bus Inventory”).
- b. “Run”: The travel time encompassing a series of passenger pick-up points to bring the passengers to a program or the series of passenger drop-off points to take them home from a program.
- c. “Route”: The combination of all Runs that a vehicle executes throughout the day.
- d. “Time Segment”: A period of time made up of one run, or a period of time made up of more than one Run in a situation in which it is not feasible for a vehicle to go back to its point of origination between Runs

1. In connection with the foregoing, the following assumptions apply:

Two sets of Bid prices will be requested. With respect to the first, the contractor is required to use Center-Owned Vehicles (hereafter “Option A”), and with respect to the second, the Contractor is required to use its own vehicles (hereafter “Option B”).

When a contractor is using Center-Owned vehicles, the contractor will be responsible for all costs with respect to the maintenance of such vehicles, vehicle insurance, and personnel.

2. Vehicle daily rates in “Time Segments” of 2-, 4-, 6-, and 8-hours are requested for both Options A and B. These Time Segments will be available to the the Center and County anywhere between the hours of 6am and 6pm, Monday through Friday.

The vehicle rate will be the sum of the individual “Time Segments” utilized each day for the Center and the County, and as authorized and scheduled by the Agent. The Vehicle price rate will depend on its designation as a 2-, 4-, 6-, or 8-hour “time Segment” vehicle.

The scheduled “Time Segment” is an average time period and therefore in some situations the transporter may require less time than the time allowed to execute the Run(s) and in some situations the transporter may take longer to execute the Run(s), therefore, the transporter will only be paid for the scheduled “Time Segment.”

3. If the most efficient vehicle Run or Route requires a certain size vehicle, but if the contractor uses a different size vehicle, or more vehicles than authorized, the payment will be made only for the authorized vehicle.

4. Comparisons of the prices bid will be based on the projected need for 40 passenger vehicles.
5. The vehicle capacities used in formulating the Runs and Route will not exceed the capabilities of the current Center-Owned Vehicles.
6. Bell-times for the Center's programs can be adjusted to permit arrive up to one hour later than scheduled at the said program locations in the morning (i.e. arrivals up to 9:00 am). Departures in the afternoon from the said programs can be up to one hour earlier than scheduled (i.e. departures as early as 3:00 pm)
7. Buses will operate 280 days per year; provided, however, that vehicles servicing preschool children with special needs will operate approximately 210 days per year. In both events, vehicles will be used a maximum of 8 hours a day.
8. The routing analysis and formulation of new Runs and Routes was based on the existing Center and Cattaraugus County passenger populations in order to prepare the bid document.
9. After the awards and periodically during the term of the Contract, however, adjustments to the Runs and Routes maybe necessary based on the most current passenger populations
10. Monitors will be bid separately, in increments of two (2) hour periods. It must be noted that Monitors will be paid for only with respect to "Time Segments" requiring monitors
11. Center-Owned Vehicles must be fueled at such place or places as the Center shall designate, and the Center shall pay for such fuel. As a result, bids relating to Center-Owned Vehicles are not to include the Contractor's cost of fuel.
12. Fuel Costs for Contractor-Owned Vehicles will be the sole responsibility of, and shall be paid for by the Contractor. As a result, bids relating to Contractor-Owned Vehicles are to include the Contractor's cost of fuel.

C. Projected Daily Vehicle and Time Segment Requirements

The following projected number of Routes and the projected Time Segments are based on the current passenger, program, and vehicle requirements. These Time Segments and number of Routes are based on historical data and are not a guarantee of next year's Time Segments or Vehicle Requirements. Though some Daily Rate Types below show "0" as a requirement, the Successful Bidder must have at least one vehicle for each classification (i.e. van, 12-14 passenger, and wheelchair) available for each Daily Rate Type.

Total Daily Rate Types (Sum of the Time Segments for a Day by Route)

	Route	Hours: AM Time Segment (6:00 am to 10:00 am)	Hours: Midday Time Segment (6:00 am to 10:00 am)	Hours: PM Time Segment (6:00 am to 10:00 am)	Total Daily Rate Type (Total Hours Required per day)
Center's Vehicles (1-13)	1	2	0	4	6
	2	2	0	4	6
	3	2	0	4	6
	4	2	4	0	6
	5	2	0	4	6
	6	2	0	4	6
	7	2	0	4	6
	8	2	0	4	6
	9	2	0	4	6
	10	4	0	4	8
	11	4	0	4	8
	12	2	0	4	6
	13	2	0	4	6
Contractor's Vehicles (14-27)	14	2	0	0	2
	15	2	0	0	2
	16	2	0	0	2
	17	2	0	0	2
	18	2	0	4	6
	19	2	0	4	6
	20	2	0	2	4
	21	2	0	0	2
	22	2	0	0	2
	23	2	0	0	2
	24	2	0	0	2
	25	2	0	0	2
	26	2	0	0	2
	27	2	0	0	2

Total Daily Rate Types (Number of Required 2-, 4-, 6-, and 8-Hour Segments Required)

(The following is a projected vehicles/daily rate requirement. Bid's will be evaluated based on the "Explanation of Weighted Average Calculation"—page 52, below)

Daily Rate Type	Daily Total Projected	Center Projected	Contractor Projected
2-Hour Vehicles Required	11	0	11
4-Hour Vehicles Required	1	0	1
6-Hour Vehicles Required	13	11	2
8-Hour Vehicles Required	2	2	0

Rehabilitation Center Bus Inventory

Veh#	Year	Dept	Make	Model	Capacity	
					Ambul	w/c
352	2004	BD08	Blue Bird	40 Pass	24	5
358	2009	BD08	Ford	20 Pass	14	2
348	2003	BD08	Blue Bird	40 Pass	26	4
351	2003	BD08	Ford	20 Pass	14	2
353	2007	BD08	Thomas	40 Pass	26	3
354	2007	BD08	Thomas	40 Pass	26	3
355	2007	BD08	Thomas	40 Pass	20	5
356	2007	BD08	Thomas	40 Pass	24	3
357	2009	BD08	Thomas	40 Pass	16	5
359	2011	BD08	Champ	40 Pass	28	5
360	2011	BD08	Champ	40 Pass	28	5
361	2012	BD08	Champ	Type IV-40 pas	28	5
362	2012	BD08	Champ	Type IV-40 pas	28	5

D. Bid Sheets

The award will be based on the lowest price from a responsible bidder. The lowest price will be determined by a weighted average price that considers the projected number of Daily Rate Types and the prices quoted. The following table shows the estimated number of each Rate Type so as to provide the basis for calculating for the weighted average per Time Segment.

Price Rate A: Contractor using Center-Owned Vehicles

Vehicle Daily Rates (based on the sum of Time Segment per Route)

Vehicle Configuration	Daily Rate Types			
	2-Hour	4-Hour	6-Hour	8-Hour
Proj. # of Daily Rate Types	11	1	13	2
	Please Fill in Prices Below			
<i>Veh. Req. for Evaluation</i>	1	1	9	2
40 to 44 Passenger (Center)	\$	\$	\$	\$

Price Rate B: Contractor Using Contractor-Owned Vehicles

Vehicle Daily Rates (based on the sum of Time Segment per Route)

Vehicle Configuration	Daily Rate Types			
	2-Hour	4-Hour	6-Hour	8-Hour
Proj. # of Daily Rate Types	11	1	13	2
	Please Fill in Prices Below			
<i>Veh. Req. for Evaluation</i>	6	1	2	1
Van	\$	\$	\$	\$
<i>Veh. Req. for Evaluation</i>	1	1	1	1
12 to 14 Passenger	\$	\$	\$	\$
<i>Veh. Req. for Evaluation</i>	1	1	1	1
Wheelchair Van	\$	\$	\$	\$

Signature: _____

Name (Please print): _____ Title: _____

Company: _____

Address: _____ Phone: _____

E. Explanation of Weighted Average Calculation

For the purposes of calculation, the following is an estimate of the number of each type of vehicle that will be required for the indicated Daily Rate Type:

Vehicle Configuration	Daily Rate Types			
	2-Hour	4-Hour	6-Hour	8-Hour
Van	6	1	2	1
12 to 14 Passenger	1	1	1	1
40 to 44 Passenger (Center)	1	1	9	2
Wheelchair Van	1	1	1	1

Example of Weighted Average Price Calculations: Presuming that a bidder bid the following prices with respect to

Vehicle Daily Rates (based on the sum of Time Segment per Route)

Vehicle Configuration	Daily Rate Types				Totals
	2-Hour	4-Hour	6-Hour	8-Hour	
Proj. # of Daily Rate Types	11	1	13	2	
	Please Fill in Prices Below				
<i>Veh. Req. for Evaluation</i>	6	1	2	1	10
Van (Price bid)	\$100	\$200	\$300	\$400	
<i>Calculated Amount</i>	\$600	\$200	\$600	\$400	\$1,800
<i>Veh. Req. for Evaluation</i>	1	1	1	1	4
12 to 14 Passenger (Price Bid)	\$150	\$200	\$250	\$300	
<i>Calculated Amount</i>	\$150	\$200	\$250	\$300	\$900
<i>Veh. Req. for Evaluation</i>	1	1	9	2	13
40 to 44 Passenger (Center) (Price Bid)	\$200	\$300	\$350	\$400	
<i>Calculated Amount</i>	\$200	\$300	\$3,150	\$800	\$4,450
<i>Veh. Req. for Evaluation</i>	1	1	1	1	4
Wheelchair Van (Price Bid)	\$300	\$350	\$350	\$400	
<i>Calculated Amount</i>	\$300	\$350	\$350	\$400	\$1,400

Total Amount Bid	\$8,550
Divided by Total Vehicles	31
Weighted Average Price	\$275.81

PART A: STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (herein after, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. **EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.
2. **NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.
3. **COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$15,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$30,000 (State Finance Law Section 163.6.a).
4. **WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
5. **NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional nondiscrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.
6. **WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at

least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations there under. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter or three (3) years after final payment, whichever is later. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) **FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER.** All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(b) **PRIVACY NOTIFICATION.** (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Page 3 October 2006 Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to

purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then: (a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation; (b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein; and (c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Empire State Development Corporation's Division of Minority and Women's Business Development (MWBD) pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES (NON-FEDERAL AID NEW YORK STATE CONTRACTS). In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992 (NON-FEDERAL AID NEW YORK STATE CONTRACTS). It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts. Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
30 South Pearl St -- 7th Floor
Albany, New York 12245
Telephone: 518-292-5220

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
30 South Pearl St -- 2nd Floor
Albany, New York 12245
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million: (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State; (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended; (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS (NON-FEDERAL AID NEW YORK STATE CONTRACTS). Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. PURCHASES OF APPAREL. In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

23. CONTRACT TERMINATION PROVISION. The State reserves the right to terminate this contract in the event it is found that the certification filed by the Contractor in accordance with the requirements contained in State Finance Laws §139j and §139k was intentionally false or intentionally incomplete. Upon such finding, the State may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the contract.

24. PERSONAL INFORMATION SECURITY. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 889-aa; State Technology Law Section 208). Contractor shall be liable for the costs associated with such breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors.

APPENDIX A-1: SUPPLEMENTAL TITLE VI PROVISIONS (CIVIL RIGHTS ACT)

To be included in all contracts

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- (1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.
- (4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT's Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - (a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
 - (b.) cancellation, termination or suspension of the contract, in whole or in part.
- (6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract or procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Appendix F-2

PART B: U.S. GOVERNMENT REQUIRED CLAUSES

Fly America Requirements – Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S.

Contractor shall comply with 49 USC 40118 (the “Fly America” Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US Flag air carriers for US 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. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US 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. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

Buy America Requirements – Applicability – Construction Contracts and Acquisition of Goods or Rolling Stock valued at more than \$100,000

Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, stating 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 CFR 661.7, and include final assembly in the US for 15 passenger vans and 15 passenger wagons produced by Chrysler Corp., software, microcomputer equipment and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be manufactured in the US and have a minimum 60% domestic content. A bidder or offeror shall submit appropriate Buy America certification to the municipal corporation with all bids on FTA-funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

Charter Service Operations – Applicability – Operational Service Contracts

Contractor shall comply with 49 USC 5323(d) and 49 CFR 604, which state that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under these exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

School Bus Operations – Applicability – Operational Service Contracts

Pursuant to 69 USC 5323(f) and 49 CFR 605, recipients and subrecipients of FTA assistance shall not engage in school bus operations exclusively for transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients shall not use federally funded equipment, vehicles, or facilities.

Cargo Preference - Use of US-Flag Vessels – Applicability – Contracts involving equipment, materials or commodities which may be transported by ocean vessels

Contractor shall: a. use privately owned US-Flag commercial vessels to ship at least 50% 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 US flag commercial vessels; b. furnish within 20 working days following the loading date of shipments originating within the US or within 30 working days following the loading date of shipments originating outside the US, a legible copy of a rated, "on-board" commercial bill-of-lading in English for each shipment of cargo described herein to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the municipal corporation (through contractor in the case of a subcontractor's bill-of-lading.) c. include these requirements in all subcontracts issued pursuant to this contract when the subcontract involves the transport of equipment, material, or commodities by ocean vessel.

Seismic Safety – Applicability – Construction of new buildings or additions to existing buildings
Contractor agrees that any new building or addition to an existing building shall be designed and constructed in accordance with the standards required in USDOT Seismic Safety Regulations 49 CFR 41 and shall certify compliance to the extent required by the regulation. Contractor shall also ensure that all work performed under this contract, including work performed by subcontractors, complies with the standards required by 49 CFR 41 and the certification of compliance issued on the project.

Energy Conservation – Applicability – All Contracts

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

Clean Water – Applicability – All Contracts and Subcontracts over \$100,000

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the municipal corporation and understands and agrees that the municipal corporation shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

Bus Testing – Applicability – Rolling Stock/Turnkey

Contractor [manufacturer] shall comply with 49 USC A5323(c) and FTA's implementing regulation 49 CFR 665 and shall perform the following: 1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the municipal corporation prior to the municipal corporation's final acceptance of the first vehicle. 2) A manufacturer who releases a report under para. 1 above shall provide notice to the operator of the testing facility that the report is available to the public. 3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the municipal corporation prior to the municipal corporation's final acceptance of the first vehicle. If configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing. 4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the US before Oct. 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

Pre-Award & Post-Delivery Audit Requirements - Applicability – Rolling Stock/Turnkey Contractor shall comply with 49 USC 5323(l) and FTA's implementing regulation 49 CFR 663 and submit the following certifications: (1) Buy America Requirements: Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If contractor certifies

compliance with Buy America, it shall submit documentation listing 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly. (2) Solicitation Specification Requirements: Contractor shall submit evidence that it will be capable of meeting the bid specifications. (3) Federal Motor Vehicle Safety Standards (FMVSS): Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the buses will not be subject to FMVSS regulations.

Anti-Lobbying Amendment, 31 USC 1352, as amended by the Lobbying Disclosure Act of 1995, PL 104-65 [to be codified at 2 USC 1601, et seq.] – Applicability – Construction/Architectural & Engineering/Rolling Stock/Professional Service Contracts/Operational Service Contracts/Turnkey Contracts

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal 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 USC 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act (1995) who has made lobbying contacts on its behalf with non-Federal funds with respect to the Federal contract, grant or award covered by 31 USC 1352. Such disclosures are forwarded from tier to tier up to the recipient.

Access to Records – Applicability – As shown below

The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.
2. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the municipal corporation, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11).

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

Federal Changes – Applicability – All Contracts

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

Bonding Requirements – Applicability – For those construction or facility improvement contracts or subcontracts exceeding \$100,000, FTA may accept the bonding policy and requirements of the recipient, provided that they meet the minimum requirements for construction contracts as follows:

- a. A bid guarantee from each bidder equivalent to five (5) percent of the bid price. The "bid guarantees" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
- b. A performance bond on the part to the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts required from Contractors are as follows:
 - (1) 50% of the contract price if the contract price is not more than \$1 million;
 - (2) 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - (3) \$2.5 million if the contract price is more than \$5 million.
- d. A cash deposit, certified check or other negotiable instrument may be accepted by a grantee in lieu of performance and payment bonds, provided the grantee has established a procedure to assure that the interest of FTA is adequately protected. An irrevocable letter of credit would also satisfy the requirement for a bond.

Bid Bond Requirements (Construction)

- (a) Bid Security - A Bid Bond must be issued by a fully qualified surety company acceptable to (Recipient) and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.
- (b) Rights Reserved - In submitting this Bid, it is understood and agreed by bidder that the right is reserved by (Recipient) to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of (Recipient).

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of (Recipient), shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of (Recipient's) damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor.

It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by (Recipient) as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense (Recipient) for the damages occasioned by default, then the undersigned bidder agrees to indemnify (Recipient) and pay over to (Recipient) the difference between the bid security and (Recipient's) total damages, so as to make (Recipient) whole.

The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive.

Performance and Payment Bonding Requirements (Construction)

The Contractor shall be required to obtain performance and payment bonds as follows:

(a) Performance bonds

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).

2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(b) Payment bonds

1. The penal amount of the payment bonds shall equal:

(i) Fifty percent of the contract price if the contract price is not more than \$1 million.

(ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

(iii) Two and one half million if the contract price is more than \$5 million.

2. If the original contract price is \$5 million or less, the (Recipient) may require additional protection as required by subparagraph 1 if the contract price is increased.

Performance and Payment Bonding Requirements (Non-Construction)

The Contractor may be required to obtain performance and payment bonds when necessary to protect the (Recipient's) interest.

(a) The following situations may warrant a performance bond:

1. (Recipient) property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).

2. A contractor sells assets to or merges with another concern, and the (Recipient), after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.

3. Substantial progress payments are made before delivery of end items starts.

4. Contracts are for dismantling, demolition, or removal of improvements.

(b) When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).

2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) A payment bond is required only when a performance bond is required, and if the use of payment bond is in the (Recipient's) interest.

(d) When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:

1. The penal amount of payment bonds shall equal:

(i) Fifty percent of the contract price if the contract price is not more than \$1 million;

(ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

(iii) Two and one half million if the contract price is increased.

Advance Payment Bonding Requirements

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. The (recipient) shall determine the amount of the advance payment bond necessary to protect the (Recipient).

Patent Infringement Bonding Requirements (Patent Indemnity)

The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. The (recipient) shall determine the amount of the patent indemnity to protect the (Recipient).

Warranty of the Work and Maintenance Bonds

1. The Contractor warrants to (Recipient), the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by (Recipient), free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the [Project Manager], the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

2. The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by (Recipient) and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to (Recipient). As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment [as provided in Item X below], furnish separate Maintenance (or Guarantee) Bonds in form acceptable to (Recipient) written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

Clean Air – Applicability – All contracts over \$100,000

(1) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the municipal corporation and understands and agrees that the municipal corporation will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. (2) Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

Recovered Materials – Applicability – All contracts over \$10,000 for items designated by the EPA

The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

Davis-Bacon and Copeland Anti-Kickback Acts – Applicability -Construction contracts and subcontracts, including actual construction, alteration and/or repair, including decorating and painting, over \$2,000

(1) Minimum wages - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona

bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. (ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met: (1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed. (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof. (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits

therefor only when the following criteria have been met: (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

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

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the municipal corporation for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following: (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete; (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3; (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract. (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code. (iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified

in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved. (ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

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

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

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

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

(10) Certification of Eligibility - (i) By entering into this contract, contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (iii) The penalty for making false statements is prescribed in 18 USC 1001.

Contract Work Hours & Safety Standards Act – Applicability – Contracts over \$100,000

(1) Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in para. (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section.

(3) Withholding for unpaid wages and liquidated damages - the municipal corporation shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours & Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in para. (2) of this section.

(4) Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

No Obligation by the Federal Government - Applicability – All contracts

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

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

Program Fraud and False or Fraudulent Statements or Related Acts – Applicability – All contracts

(1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, 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 FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government

reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

(2) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.

(3) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Termination – Applicability – All Contracts over \$10,000, except contracts with nonprofit organizations where the threshold is \$100,000

a. Termination for Convenience (General Provision) the municipal corporation may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the municipal corporation's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the municipal corporation. If contractor is in possession of any the municipal corporation property, contractor shall account for same, and dispose of it as the municipal corporation directs.

b. Termination for Default [Breach or Cause] (General Provision) If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the municipal corporation may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the municipal corporation that 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 contractor, the municipal corporation, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) the municipal corporation in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions

If contractor fails to remedy to the municipal corporation's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the municipal corporation setting forth the nature of said breach or default, the municipal corporation 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 the municipal corporation from also pursuing all available remedies against contractor and its sureties for said breach or default.

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

e. Termination for Convenience (Professional or Transit Service Contracts) the municipal corporation, by written notice, may terminate this contract, in whole or in part, when it is in the municipal corporation's interest. If the contract is terminated, the municipal corporation shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, the municipal corporation may terminate

this contract for default. the municipal corporation shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

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

g. Termination for Default (Transportation Services) If contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if contractor fails to comply with any other provisions of this contract, the municipal corporation may terminate this contract for default. the municipal corporation shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while contractor has possession of the municipal corporation goods, contractor shall, as directed by the municipal corporation, protect and preserve the goods until surrendered to the municipal corporation or its agent. Contractor and the municipal corporation shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the municipal corporation's convenience.

h. Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified, or any extension, or fails to complete the work within this time, or if contractor fails to comply with any other provisions of this contract, the municipal corporation may terminate this contract for default. the municipal corporation shall terminate by delivering to contractor a notice of termination specifying the nature of default. In this event, the municipal corporation may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. Contractor and its sureties shall be liable for any damage to the municipal corporation resulting from contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the municipal corporation in completing the work.

Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:

1. Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the municipal corporation, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and

2. Contractor, within 10 days from the beginning of any delay, notifies the municipal corporation in writing of the causes of delay. If in the municipal corporation's judgment, delay is excusable, the time for completing the work shall be extended. the municipal corporation's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for the municipal corporation's convenience.

i. Termination for Convenience or Default (Architect & Engineering) the municipal corporation may terminate this contract in whole or in part, for the municipal corporation's convenience or because of contractor's failure to fulfill contract obligations. the municipal corporation shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the municipal corporation all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the municipal corporation's convenience, it shall make an equitable

adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the municipal corporation may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the municipal corporation.

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

j. Termination for Convenience or Default (Cost-Type Contracts) the municipal corporation may terminate this contract, or any portion of it, by serving a notice of termination on contractor. The notice shall state whether termination is for convenience of the municipal corporation or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the municipal corporation, or property supplied to contractor by the municipal corporation. If termination is for default, the municipal corporation may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the municipal corporation and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the municipal corporation's convenience, contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. If, after serving a notice of termination for default, the municipal corporation determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, the municipal corporation, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

Government-wide Debarment and Suspension (Nonprocurement) – Background and Applicability - In conjunction with the Office of Management and Budget and other affected Federal agencies, DOT published an update to 49 CFR Part 29 on November 26, 2003. This government-wide regulation implements Executive Order 12549, Debarment and Suspension, Executive Order 12689, Debarment and Suspension, and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327).

The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for Federally required auditing services. 49 CFR 29.220(b). This represents a change from prior practice in that the dollar threshold for application of these rules has been lowered from \$100,000 to \$25,000. These are contracts and subcontracts referred to in the regulation as "covered transactions."

Grantees, contractors, and subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) Checking the Excluded Parties List System, (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract. This represents a change from prior practice in that certification is still acceptable but is no longer required. 49 CFR 29.300.

Grantees, contractors, and subcontractors who enter into covered transactions also must require the entities they contract with to comply with 49 CFR 29, subpart C and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels).

Suspension and Debarment

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractors, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:
The certification in this clause is a material representation of fact relied upon by the municipal corporation. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the municipal corporation, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Contracts Involving Federal Privacy Act Requirements – Applicability - When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

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

Civil Rights – Applicability – All contracts

The following requirements apply to the underlying contract:

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

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

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 USC 2000e, and 49 USC 5332, contractor shall comply with all applicable equal employment opportunity requirements of USDOL, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, USDOL," 41 CFR 60 et seq., (implementing Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC 2000e), and any applicable Federal statutes, executive orders, regulations, and policies that may in the future affect construction activities undertaken in the course of the project. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, contractor shall comply with any implementing requirements FTA may issue.

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

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

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

Breaches and Dispute Resolution – Applicability – All contracts over \$100,000

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the municipal corporation's authorized representative. This decision shall be final and conclusive unless within ten days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the municipal corporation's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the municipal corporation's CEO shall be binding upon contractor and contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by the municipal corporation, 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 therefore shall be made in writing to such other party within ten days 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 municipal corporation and 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 New York State.

Rights and Remedies - 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 municipal corporation 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.

Patent and Rights Data – Applicability – Research projects in which FTA finances the purpose of the grant is to finance the development of a product or information. These patent and data rights requirements do not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development or writing the user's manual.

Contracts Involving Experimental, Developmental, Or Research Work.

A. Rights in Data - This following requirements apply to each contract involving experimental, developmental or research work: (1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added: (a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication,

however, does not apply to any contract with an academic institution. (b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party. 1. Any subject data developed under that contract, whether or not a copyright has been obtained; and 2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA. (c) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added 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 that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c) , however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects. (d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government. (e) 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. (f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work. (g) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA. (3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401. (4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

B. Patent Rights - The following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that

invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified. (2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401. (3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

Transit Employee Protective Provisions – Applicability – Contracts for transit operations

(1) Contractor shall comply with applicable transit employee protective requirements as follows:

(a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, contractor shall carry out transit operations work on the underlying contract in compliance with terms and conditions determined by USDOL to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 USC A 5333(b), and USDOL guidelines at 29 CFR 215, and any amendments thereto. These terms and conditions are identified in USDOL's letter of certification to FTA applicable to the municipal corporation's project from which FTA assistance is provided to support work on the underlying contract. Contractor shall carry out that work in compliance with the conditions stated in that USDOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with FTA assistance either for projects for elderly individuals and individuals with disabilities authorized by 49 USC 5310(a)(2), or for projects for nonurbanized areas authorized by 49 USC 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

(b) Transit Employee Protective Requirements for Projects Authorized by 49 USC 5310(a)(2) for Elderly Individuals & Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with FTA assistance authorized by 49 USC 5310(a)(2), and if USDOT has determined or determines in the future that the employee protective requirements of 49 USC 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, contractor shall carry out the Project in compliance with the terms and conditions determined by USDOL to meet the requirements of 49 USC 5333(b), USDOL guidelines at 29 CFR 215, and any amendments thereto. These terms and conditions are identified in USDOL's letter of certification to FTA, the date of which is set forth in the Grant Agreement or Cooperative Agreement with the state. Contractor shall perform transit operations in connection with the underlying contract in compliance with the conditions stated in that USDOL letter.

(c) Transit Employee Protective Requirements for Projects Authorized by 49 USC 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with FTA assistance authorized by 49 USC 5311, the contractor shall comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by USDOT and USDOL, dated May 31, 1979, and the procedures implemented by USDOL or any revision thereto.

(2) Contractor shall also include any applicable requirements in each subcontract involving transit operations financed in whole or in part with FTA assistance.

Disadvantaged Business Enterprise (DBE) 49 CFR 26 – Applicability – Contracts over \$250,000 (exclusive of transit vehicle purchases)

To the extent authorized by Federal law, the Recipient agrees to facilitate participation by Disadvantaged Business Enterprises (DBE) in the Project and assures that each subrecipient, lessee, and third party contractor at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable. Therefore: (1) The Recipient agrees and assures that it

will comply with section 1101(b) of SAFETEA LU, 23 U.S.C. § 101 note, and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26. (2) The Recipient agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any third party contract, or subagreement supported with Federal assistance derived from U.S. DOT in the administration of its DBE program and will comply with the requirements of 49 C.F.R. Part 26. The Recipient agrees to take all necessary and reasonable steps set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all third party contracts and subagreements supported with Federal assistance derived from U.S. DOT. As required by 49 C.F.R. Part 26 and approved by U.S. DOT, the Recipient's DBE program, if any, is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The Recipient agrees that implementation of this DBE program is a legal obligation, and that failure to carry out that DBE program shall be treated as a violation of the Grant Agreement or Cooperative Agreement for the Project and the Master Agreement. Upon notification by U.S. DOT to the Recipient of its failure to implement its approved DBE program, U.S. DOT may impose sanctions as provided for under 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 et seq.

Incorporation of Federal Transit Administration (FTA) Terms – Applicability – All contracts
The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the municipal corporation to be in violation of FTA terms and conditions.

Drug & Alcohol Testing – Applicability – Operational service contracts
The Contractor agrees to comply with the following Federal substance abuse regulations: a. Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 C.F.R. Part 29, Subpart F, as modified by 41 U.S.C. §§§§ 702 et seq. b. Alcohol Misuse and Drug Use. FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655, to the extent applicable.

Prohibition Against Exclusionary or Discriminatory Specifications – Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

Conformance with ITS National Architecture – Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture in compliance with Sec. 5206(e) of TEA-21, 23 USC 502, and FHWA/FTA's "Transportation Equity Act for the 21st Century; Interim Guidance on Conformity with the National Intelligent Transportation Systems (ITS) Architecture and Standards" 63 Federal Register 70443 et seq. Dec. 21, 1998, and other subsequent Federal directives that may be issued.

Access Requirements for Persons with Disabilities – Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

Notification of Federal Participation – To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

Interest of Members or Delegates to Congress - No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

Ineligible Contractors and Subcontractors - Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the municipal corporation shall cancel, terminate or suspend this contract.

Other Contract Requirements - To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those standard clauses attached hereto, and shall comply with the municipal corporation's Procurement Guidelines, available upon request from the municipal corporation.

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

Real Property - Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 29 CFR 18.31, 49 CFR 24 Subpart B, FTA Circular 5010.1B Chapter I-7(b), and FTA Master Agreement, Sec. 19 as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Access to Services for Persons with Limited English Proficiency. To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 66 Fed. Reg. 6733 et seq., January 22, 2001.

Environmental Justice. The Recipient agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing

Federal Single Audit Requirements For State Administered Federally Aid Funded Projects Only

Non Federal entities that expend \$500,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, Audits of States, Local Governments, and Non Profit Organizations@. Non Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non Federal entities that expend less than \$500,000 in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in '3052.215(a), but records must be available for review or audit by appropriate officials of the Federal agency, the New York State Department of Transportation, the New York State Comptroller's Office and the U.S. General Accounting Office (GAO).

Non Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Rd, Albany, NY 12232.

Catalog of Federal Domestic Assistance (CFDA) Identification Number

OMB Circular A 133 as to Federal aid recipient's responsibilities regarding identification and accounting for awards and expenditures by CFDA Number.

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.

The CFDA number for the Federal Transit Administration Nonurbanized Area Formula (Section 5311) program is 20.509.