

PUBLIC NOTICE

REQUEST FOR PROPOSALS (RFP)

OLEAN AREA TRANSIT SYSTEM BUS SERVICE PROPOSAL

Requests for Proposals are being solicited by the City of Olean to procure Olean Area Transit System Bus Service within the geographic area of the City of Olean (the City) and its environs to meet the needs of the general public, as well as individuals affiliated with organizations that have agreed to participate in agreements to share operating costs in a fair and rational manner among coordinating partners.

The period of the services sought by this procurement shall be June 1, 2024, through May 31, 2025, with an option to renew for up to three one-year extensions.

A pre-proposal conference is scheduled for Wednesday, November 29th, 2023, at 2:00 p.m. in the Second Floor conference room, Room 211 of the Olean Municipal Building, 101 East State Street, Olean, NY.

Questions concerning the Request for Proposal, bid specifications and requests for clarification will be received by Friday, December 8, 2023. Such questions and requests may be addressed to Keri L. Kerper, Program Coordinator, Department of Community Development, Olean Municipal Building, Room 209, 101 East State Street, Olean, NY 14760, telephone: 716-376-5647 or fax 716-376-5644.

Proposals will be accepted until Tuesday, January 9th, 2024, 2:00 p.m. at the offices of the Department of Community Development, Olean Municipal Building, Room 209, 101 East State Street, Olean, NY 14760. Proposals must be submitted on the prescribed Proposal Form. All proposals must be sealed and clearly marked:

ATTENTION: OLEAN AREA TRANSIT SYSTEM -BUS SERVICE PROPOSAL

The Request for Proposal documents, including instructions for submitting proposals, are on file at the offices of the Department of Community Development, where copies and clarifications on the proposal documents may be requested from Keri L. Kerper, Department of Community Development Program Coordinator, telephone: 716-376-5647 or by e-mail at kkerper@cityofolean.org or found online via the following webpage: <https://cityofolean.org/request-for-proposal/>

All responses to the RFP must include executed copies of the required certifications and bid forms. Any response not containing these items, or any submission not so marked or received at the time and place designated in this RFP will not be considered. One original copy of all responses to the RFP, including Materials to be submitted with Bid, including the required certifications and signature pages, is required. However, The City of Olean requests respondents to provide two additional copies of their complete responses to the RFP. The additional two copies do not need to include original signatures.

An executed Non-Collusive Bidding Certification shall accompany each proposal. Failure to provide this certification will result in not having the bid read. No Respondent may withdraw their bid for a period of 45 days after opening.

The contract award will be made by the City of Olean after consideration of proposal evaluation factors, as listed in the Request for Proposal document. The contract will be awarded following the review and ultimate approval by the Olean Common Council.

Prospective proposers 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 and local resources and that withdrawal of such funds may result in a reduction or termination of the services requested pursuant to this RFP. Required Federal Transit Administration and New York State contract clauses and certifications are included in the Contract Documents. All applicable laws, rules, and regulations shall apply to the contract awarded to, and to be executed by, the Successful Proposer.

All potential respondents are notified that disadvantaged and minority/women-owned enterprises and certified Service-Disabled Veteran-owned enterprises are encouraged to submit responses to this request. The City of Olean 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 City of Olean reserves the right to reject any or all proposals, bids, to waive any informality, and to withdraw this solicitation at any time. The City of Olean is an equal opportunity employer.

Keri L. Kerper
Program Coordinator
Department of Community Development
Olean Municipal Building, Room 209
101 East State Street
Olean, NY 14760

INSTRUCTIONS TO RESPONDENTS
OLEAN AREA TRANSIT SYSTEM
BUS SERVICE PROPOSAL

1. BID PROPOSAL FORM

Proposals shall be submitted in accordance with Appendix E appended to these Request for Proposal Specifications or the proposal will not be considered. Proposals 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 proposer 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 City of Olean shall be reason to reject the proposal of such bidder, or if such change in the Request for Proposal is not discovered prior to entering into a contract, to void any contract entered into pursuant to such bid.

3. INFORMALITIES

The City 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 proposals. The contract award will be made by the City of Olean after consideration of proposal evaluation factors. Conditional bids will not be accepted.

4. BID TIME

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

5. INVESTIGATIONS

The City may make such investigations as it deems necessary to determine the ability of the respondent to perform the work, and the respondent shall furnish to the City all such information and data for this purpose as the City may request. The City reserves the right to reject any proposal if the evidence submitted by, or investigation of, such respondent fails to satisfy the City that such respondent is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein.

6. PROPOSAL ENVELOPE

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

7. NON-COLLUSIVE CERTIFICATION

A non-collusive bidding certification shall be made by each proposer in the form provided and shall be submitted as part of the proposal. Proposals submitted without non-collusive bidding certification will be considered irregular and may be rejected by the City of Olean. The required certification is included as Appendix D.

8. CONTRACT AWARD

The contract award will be made by the City of Olean after consideration of proposal evaluation factors and the subsequent review and approval by the Olean Common Council.

9. EXECUTORY CLAUSE

This executory clause shall be part of any agreement executed pursuant to this RFP:

“It is understood by the parties that in accordance with the provisions of this Request for Proposal, the Bid Specifications that are a part of this agreement, this agreement shall be deemed to be executory only to the extent of the monies available to the City of Olean and appropriated therefore, and no liability on account thereof shall be incurred by the City 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 City of Olean to recover damages. Without limiting the foregoing, and in addition to other remedies available, in the event that the contractor fails to perform in accordance with the terms of this RFP and/or the contract awarded as, the City of Olean may secure a substitute service provider, and deduct the cost thereof from any sums then or thereafter due to the contractor from a contract for these services or any other contract between the contractor and the City or Olean.

11. TAXES

No taxes are to be billed to the City. Proposals 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 City 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. NONDISCRIMINATION IN EMPLOYMENT

In connection with execution of this contract, the contractor will not discriminate against any applicant for employment because of age, race, color, religion, sex or national origin. The

contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to age, race, color, religion, sex or national origin. Such action shall include, but not be limited to, recruiting and related advertising, layoff or termination, upgrading, demotion, transfer, rates of pay and compensation, and selection for training, including apprenticeship. The contractor will post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

14. **CONTRACT ASSIGNMENTS**

The proposer 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 Mayor of the City of Olean, which consent may be withheld for any reason.

15. **ALTERNATE ITEMS**

If services other than those specified in this RFP document are offered, the proposer must so state and furnish at the time of the RFP opening, if so requested, and as part of his proposal, 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 City, sufficient detail is not presented as part of the sealed proposal to permit definite evaluation of any substitute service, the proposal will not be considered.

16. **ADDITIONAL INFORMATION**

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

17. **HOLD HARMLESS**

The successful proposer to whom the contract is awarded shall indemnify and hold harmless City of Olean 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 proposal.

18. **BID VALIDITY**

The proposal is firm and irrevocable for a period of 45 days from the date and time of the proposal opening. If a contract is not awarded within the 45-day period, then a proposer, to whom the proposal has not been awarded, may withdraw proposal bid by serving written notice of its intention to do so upon the Program Coordinator, Department of Community Development of the City of Olean. Upon withdrawal of the proposal pursuant to this paragraph, the City will forthwith return the proposer's security deposit.

19. **CONTRACT INTEREST**

No official or employee of the City, who is authorized in such capacity, and on behalf of the City, 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 RFP shall become directly or indirectly interested personally in such contract or in any part thereof. No officer or employee of, or for the City, who is authorized in such capacity, and on behalf of the City, to exercise any supervisory, administrative, or other function, in connection with a contract to be awarded in connection with this RFP, shall become directly or indirectly interested personally in such contract or in any part thereof.

20. STANDARDS OF CONDUCT

1. The Common Grant Rules require each recipient to maintain written standards of conduct governing the performance of its employees that are engaged in or otherwise involved in the award or administration of third party contracts.
 - a. Personal Conflicts of Interest. As provided in the Common Grant Rules and in the Federal Transit Administration (FTA) Master Agreement, no employee, officer, agent, or board member, or his or her immediate family member, partner, or organization that employs or is about to employ any of the foregoing individuals may participate in the selection, award, or administration of a contract supported with FTA assistance if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of those individuals previously listed has a financial or other interest in the firm selected for award.
 - b. Gifts. The recipient's officers, employees, agents, or board members may neither solicit nor accept gifts, gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subcontracts. The recipient may set minimum rules when the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.
 - c. Violations. To the extent permitted by State or local law or regulations, such standards of conduct will provide for penalties, sanctions, or other disciplinary action for violation of such standards by the recipient's officers, employees, agents, board members, or by contractors, subcontractors, or subrecipients or their agents.

21. 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 RFP. Except as specifically stated in these RFP specifications, no cost increase shall be charged for any reason whatsoever.

22. SINGLE PROPOSAL/TOO FEW PROPOSALS

In the event that only one Proposal, or, in the sole opinion of the City, too few Proposals are received to ensure a reasonable price, the City may request from the Proposer(s) a price or cost analysis in such detail as to permit the City to determine and ensure a reasonable price has been

received. As result of this submission, the City will make the award by negotiation or reject all Proposal(s).

23. PROTEST PROCEDURES

The following protest procedures have been written in compliance with the Federal Transit Administration (FTA) Third Party Contracting Requirements (Circular 4220.1F). Parties that wish to file a bid protest should review these procedures in conjunction with FTA's Circular 4220.1F. These procedures also address complaints or appeals regarding the funding of unsolicited proposals and other protests unrelated to the solicitation process and contract award decisions. ESPA's protest procedures will be referenced in the Application Guidance so all interested parties shall know their rights under these protest procedures.

I. PROTESTS PERTAINING TO THE CONTRACT SOLICITATION PROCESS OR CONTRACT AWARD DECISION

The following procedures and time requirements shall be applied uniformly in processing all protests. Protests may be made by active or prospective bidders whose direct economic interest would be affected by a solicitation, proposed award, or award of a contract.

Protests must be submitted in writing to:

Program Coordinator
Department of Community Development
City of Olean Municipal Building
101 East State Street
Olean, NY 14760

The City of Olean will consider all written protests made within the timelines stated in this policy. Protest submissions should be concise, logically arranged, clearly state the grounds for the protest, and must include at least the following information:

1. Name, address, and telephone number of protestor.
2. Solicitation or contract name and/or number.
3. A detailed statement of the legal and factual grounds for the protest, including copies of all relevant documents or information.
4. A statement of relief requested.

Only written protests received within the timelines stated in these procedures will be considered. Upon receipt of a protest, the City of Olean will notify the protestor that the protest has been received by mail within five (5) working days. The City of Olean may request additional information from the protesting party, which must be submitted in writing to the City of Olean within five (5) working days from the date of the City of Olean's request.

Within twenty (20) working days of receipt of a written protest, the City of Olean shall either:

1. Issue a final written decision which responds in detail to each issue raised in the protest and includes a rationale for the decision rendered, or
2. Conduct, at the City of Olean's discretion, an informal hearing to allow the interested participating parties an opportunity to present their positions and supporting facts, documents, justification, and technical information. The City of Olean will advise all

interested parties of the final decision in writing no later than five (5) working days from the date of the informal hearing.

The City of Olean's decision shall be final. A request to reconsider such decision will only be allowed if relevant data becomes available that was not previously known or if there has been an error of law or regulation. Such a request for reconsideration must be made within five (5) working days after notification of the City of Olean's final decision.

Protests Before Proposal Solicitation

Bid protests alleging restrictive specifications or improprieties, which are apparent prior to bid or proposal opening, must be submitted in writing to the City of Olean and must be received at least five (5) federal working days prior to bid/proposal opening. Bids will not be opened until five (5) working days after resolution of the protest unless the City of Olean determines that:

1. The items to be procured are urgently required;
2. Delivery or performance will be unduly delayed by failure to make award promptly; or
3. Failure to make award will otherwise cause undue harm to the City of Olean.

If the written protest is not received by the time specified, bids or proposals may be received, opened, and awarded in the normal manner unless the City of Olean determines that it is in the best interest of all concerned to delay any step.

Protests After Opening of Proposal Solicitation and Prior to Award

Protests against the making of an award may be made after bid opening and prior to award. Such protests must be submitted in writing to the City of Olean and must be received by the City of Olean within five (5) working days of the bid opening. If the City of Olean decides to withhold the award pending resolution of the protest, the City of Olean will notify all bidders whose bids or proposals might become eligible for award and offer them the option to extend or withdraw the bid or proposal beyond the specified proposal validity period. Awards will not be made until at least five (5) working days after resolution of the protest unless the City of Olean determines that:

1. The items to be procured are urgently required;
2. Delivery or performance will be unduly delayed by failure to make award promptly; or
3. Failure to make an award will otherwise cause undue harm to the City of Olean.

Protests After Award

Protests received after announcement of an award or after a contract has been executed will only be considered if the City of Olean determines that the matter is in the public interest or the protest presents clear and convincing evidence of fraud, misrepresentation, other illegality, or gross impropriety in the selection of a proposal. If a protest is under consideration, the City of Olean shall evaluate the proposal at issue a second time in its entirety and use the same evaluation criteria and rating factors applied in the initial review of the proposal.

The proposal will be evaluated by a panel consisting of City of Olean management.

If a protest involving an executed contract is under consideration, the City of Olean will notify the selected contractor of the protest and its basis and may, at its discretion, order the contractor to suspend all City of Olean work activities. If the awarded contractor has not executed the contract as of the date the protest is received by the City of Olean, the contract will not be

executed until five (5) working days after resolution of the protest unless the City of Olean determines that:

1. The items to be procured are urgently required;
2. Delivery or performance will be unduly delayed by failure to make award promptly; or
3. Failure to make award will otherwise cause undue harm to the City of Olean.

II. APPEALS TO FEDERAL TRANSIT ADMINISTRATION

A protestor may file an appeal with FTA under certain limited circumstances, after the City of Olean has rendered a decision on a bid protest. FTA's review of any protest will be limited to an alleged failure by the City of Olean to have written protest procedures or alleged failure by the City of Olean to follow such procedures. A protestor desiring to do so shall file its protest with FTA no later than five (5) days after the final decision of the City of Olean is rendered under the City of Olean protest procedure. In instances where the protestor alleges that the City of Olean failed to make a final determination on the protest, the protestor shall file a complaint with FTA no later than five (5) days after the protestor knew or should have known of the City of Olean's failure to render a final determination on the protest.

Protests to FTA should be filed with the appropriate FTA Regional Office with a concurrent copy to the City of Olean. The protest filed with FTA shall be filed in accordance with FTA Circular 4220.1F, include the name and address of the protestor, identify the City of Olean project number, contain a statement of the grounds for the protest and any supporting documentation, and include a copy of the local protest filed with the City of Olean and a copy of the City of Olean's decision, if any.

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General Information

Response Submission: All responses are to be mailed or delivered in a sealed envelope clearly marked “**OLEAN AREA TRANSIT SYSTEM BUS SERVICE PROPOSAL,**” to Keri L. Kerper, Program Coordinator, Department of Community Development, Olean Municipal Building, Room 209, 101 East State Street, Olean, NY 14760. The Time: **2:00 p.m.** and Date: **Tuesday, January 9, 2024**, of opening should also be visible. Delay in mail delivery is *not* an exception; allowance for time of arrival should be made.

Pre-Proposal conference: A pre-proposal conference is scheduled on Wednesday, November 29, 2023, at 2:00 p.m. in the First-Floor conference room 119 of the Olean Municipal Building, 101 East State Street, Olean, NY.

Discrepancies or Omissions/Questions or Clarifications: If the respondent should find any discrepancies or omissions in the specifications, or if the proposer should have questions or require clarification concerning the specifications, then he or she will notify Keri L. Kerper, Program Coordinator, Department of Community Development, in writing at the aforementioned address. Ms. Kerper will send written instructions, clarifications and/or answers, as applicable to all proposers. Neither the City, nor Ms. Kerper will be responsible for any oral instructions or interpretations of the meaning of the specifications or other contract documents to any bidder by any other person or persons. Questions concerning the RFP specification and requests for clarification will be received until Friday, December 8th, 2023. Such questions and requests may be addressed to Keri L. Kerper, Program Coordinator, Department of Community Development, Olean Municipal Building, Room 209, 101 East State Street, Olean, NY 14760, telephone: 716-376-5647 or fax 716-376-5644 or emailed to kkerper@cityofolean.org.

Respondents to the RFP must complete Appendix H: *Acknowledgement of Receipt of RFP, Addendum(s) and Responses to Questions and Requests for Clarifications.*

Forms: All responses are to be made out on the proposal form attached as Appendix E hereto. All certificates must be completed, signed and in compliance with the provisions of the General Municipal Law, and applicable Federal and New York State laws.

Contract Award: As specified in Appendix E, the contract award will be made by the City of Olean after consideration of proposal evaluation factors and ultimate approval to proceed by the Common Council. Past performance will be considered in making the final selection of contractors. However, the City of Olean reserves the right to reject any or all proposals, or any parts of proposals, or any supplies or contractual services connected thereto, when to do so would be deemed by the City to be in the best interest of the public.

Upon acceptance of any proposal, the Successful Proposer will, and by submitting a proposal 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 City and as may be required by the State of New York, and the United States Department of Transportation. Such contract will include the specifications contained herein together with such other provisions as are normal and customary in agreements to provide services to a public jurisdiction. It is specifically understood that each and every provision of the specifications contained herein will be deemed to be incorporated into the contract. Notwithstanding the foregoing, in the event that the Successful Proposer does not execute such a contract, this document shall be deemed to be the contract between the Successful Proposer and the City, and the Successful Proposer's execution and submission of the Proposal Forms shall be deemed to be the execution of such contract, and

such contract shall be subject to the privacy of protected health care information as described in the Health Insurance Portability and Accountability Act (HIPAA) of 1996.

Responsible Proposer: A responsible proposer is a public transportation service provider who has demonstrated judgment and integrity, is of good reputation, experienced in 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 City of Olean in its contractual relations. The Successful Respondent will allow the City or its designee to inspect the proposer's facilities to verify the proposer's capacity to complete the contract.

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

Copies of Price Proposals: Respondents who request copies of the price proposals may contact Keri Kerper at 716-376-5647 or by email at kkerper@cityofolean.org.

Additional Terms and Conditions

Intent: It is the intent of this Request for Proposal to contract for transportation services for the general public, as well as individuals affiliated with organizations that have agreed to participate in the development and provision of coordinated public transportation services among private, non-profit, and public transportation providers for certain Federal Transit Administration and other federal funding programs. Such participation may be made possible by the negotiation of agreements, whereby operating costs are shared in a fair and rationale manner among coordinating partners. Individuals that might use the services sought under this Request for Proposal may include persons who are found to be eligible due to employment and/or employment activities by the Cattaraugus County Department of Social Services and clients of other Cattaraugus County departments; clients of the NYSARC, Inc., Cattaraugus Niagara Counties Chapter, d/b/a Intandem; students, faculty and staff of St. Bonaventure University; enrolled Members of the Seneca Nation, and/or other agencies of Cattaraugus County or the City of Olean or City of Salamanca.

Route(s): The OATS system presently includes five public bus routes, for which proposals to operate fixed-route, route deviation service are requested. For these five bus routes, the route along which the bus service currently travels, the present stops that are required along that route, and the hours during which the bus service is presently required to operate is as set forth in Appendix E. However, the route and the stops may be altered from time to time and routes may be added and/or discontinued when in the view of the City of Olean it is in the City's best interest to do so. It is specifically the intent of the City of Olean that the bus service be continuous along the route during the hours of operation.

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

Ownership and Inspection of Files and Records: Any and all files and/or records containing information gathered or generated in connection with the subject of this RFP and/or related to it are, and shall be at all times, the property of the City. The City 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 shall be subject to audit and inspection by departments of the State of New York and/or the Federal government having appropriate jurisdiction. On reasonable request from the City, the Contractor will make copies of specified portions of such files and records and deliver those copies to the City. Upon the expiration of the term of the contract, at the City's election, all such files and records shall be retained by the Contractor until instructed by the City otherwise, delivered to the City, or destroyed in accordance with the City's instructions.

Insurance Due Dates: Insurance requirements are as set out on Appendix A, Section IX—Insurance. Any certificates of insurance or other forms of security required by this bid are to be submitted to the City 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).

Use of Olean Buses in Declared Emergency Disaster Situation

City of Olean owned buses are cited in the City of Olean disaster plan to transport the general public in the event of a declaration of an emergency disaster situation in Olean. In the event of the declaration of an emergency disaster situation, the City of Olean will direct the contract operator of OATS services to cease operation of regularly scheduled OATS transit services and will be directed to deliver the city owned buses to the City of Olean garage located on Main Street in Olean. During the declared emergency, City-owned buses will be operated by City-owned or designated emergency personnel. The contractor will be paid for the travel time to drive the city owned buses to the city garage and return the buses to the contractor storage facility at the conclusion of the emergency disaster situation. The contract operator will be reimbursed for the travel time at the hourly rate specified in Appendix E, Bid Pricing form, Option A.

Submittal of Formal Proposal: The formal Proposal must be submitted on the original form.

All potential operators should be aware that all state and federal program funds for public transportation service administered by NYSDOT are awarded only to a municipal sponsor, such as a county, city, public transportation authority or Indian reservation. The municipal sponsor then may provide service under its own authority or search out, through a competitive process, a third-party operator, who then contracts with the sponsor to provide the service.

Program requirements are as follows:

1. State Transportation Operating Assistance (STOA). To be eligible for STOA, the service must be open and marketed to the general public, charge an appropriate fare, and be provided with vehicles capable of carrying 15 or more passengers. An exception to the use of 8-14 passenger vehicles may be granted on a case-by-case basis. Only municipalities are eligible to receive STOA funds.

To initiate STOA, a letter of intent from the municipality is sent to the NYSDOT Public Transportation Bureau indicating sponsorship of public transportation services for STOA. This is

followed by a signed 119r agreement between the municipality and the third-party operator, if the municipality is not providing the service itself.

Revenue vehicle miles and individual passenger counts must be kept for STOA reporting purposes. Quarterly statistics must be reported to NYSDOT via the municipality by the 17th of January, April, July & October following the end of a quarter.

Operators receiving STOA must also maintain accounting books and records in accordance with NYSDOT's prescribed Uniform System of Accounts and file annual reports with the Department.

Part 975 of the New York State Code of Rules and Regulations details all STOA program requirements. A copy of the STOA Rules and Regulations is available at <https://www.dot.ny.gov/divisions/policy-and-strategy/public-transportation/funding-sources/STOA#A4>. STOA related questions should be addressed to Tom Vaughan at (518) 457-8335 or by going to: tom.vaughan@dot.ny.gov.

2. Operating Authority. Private third-party operators and municipalities operating outside of their municipal limits need operating authority from NYSDOT. General operating authority information may be obtained by calling Conor Morgan Bisio at (518) 485-5740 or by going to: conor.morgan@dot.ny.gov

3. Bus Inspection. Any operator required to have Operating Authority must have its buses inspected by NYSDOT. Inspections are scheduled and conducted through NYSDOT's regional offices. General information on bus inspection may be obtained by calling Chad Smith at (518) 457-6512 or by going to: chad.smith@dot.ny.gov

4. Public Transportation Safety Board (PTSB) safety oversight and System Safety Plan. NYSDOT rules and regulations require operators receiving STOA to submit a system safety plan for approval within 180 days of service commencement and report certain accident events for immediate investigation by the PTSB staff. Also, a certification of internal accident investigation procedures is required. Contact Jonathan Nicastro of the NYSDOT Motor Carrier Safety Bureau at (518) 485-2449 or by email at: jonathan.nicastro@dot.ny.gov

5. Federal Transit Administration (FTA) Section 5311 Program. In order to be eligible for federal Section 5311 operating and/or capital assistance, a public transportation system must operate in a rural area and be eligible for STOA. Grants are made to municipalities through a grant agreement between the NYSDOT and the municipality. If a third-party contractor is the transit operator, a separate Third-Party Agreement between the contractor and the municipality is required to pass federal funds to a third-party contractor.

Federal regulations also require a recipient and contractor to sign applicable Federal Certifications and Assurances, Third-Party Lease and Service Agreement for capital equipment, Section 5333(b) Labor Documentation & Warranty, and Title VI/Disadvantaged Business Enterprise Assurance. It should be noted that municipalities initiate interest in the 5311 program by contacting NYSDOT. Municipalities are responsible for filing and certifying all applications, agreements and reports, even if the municipality contracts with a third-party operator for service.

All applications, agreements, reports and related materials flow from the municipality to the third-party operator and back.

The New York State Department of Transportation (NYSDOT) is required by the Federal Transit Administration (FTA) to ensure that recipients of FTA assistance comply with federal requirements. To meet this federal mandate, NYSDOT conducts periodic reviews of its grantees. Additional objectives of the reviews are to ensure compliance with state requirements, identify and promote good practices, identify training and technical assistance needs and spend one-on-one time with recipients.

This compliance review lists materials to be reviewed and contains questions to be answered. The questions address FTA and state requirements and good practices related to the funding you receive and the services you provide. The third-party operator shall maintain and provide records to assist the City of Olean in preparation of documentation to satisfy the requirements for the compliance review.

6. Drug and Alcohol Testing Program. The FTA Certifications & Assurances also require operators to have a drug and alcohol testing program in place as required by the Code of Federal Regulations, 49 CFR Parts 40 & 655. The drug and alcohol regulations are also available on FTA's website at <http://www.fta.dot.gov/>. The contact person is Bill Telovsky. He can be reached at (518) 457-8335 or by going to: william.telovsky@dot.ny.gov.

7. Drivers. Only qualified drivers who meet NYS Department of Motor Vehicle (DMV) requirements can be hired. For information on the DMV Driver Certification process please contact the Bus Driver Unit at (518) 473-9455. Also, under FTA drug and alcohol testing requirements discussed in #6 above, a driver cannot be hired until a pre-employment drug test is passed.

If you have any general questions, please contact the Public Transportation Bureau at (518) 457-8335. For specific programmatic issues discussed above, please contact the staff person identified.

8. Accessible Service. The Americans with Disabilities Act (ADA) requires fixed route public transportation systems to be accessible to individuals with disabilities, provide complementary paratransit to individuals with disabilities that are 3/4 of a mile from the fixed route and unable to reach the fixed routes stops, and accommodate passenger needs through alternative schedule formats and stop announcements. The paratransit requirement can also be met by deviating 3/4 of a mile with the fixed route vehicle to pick up any passenger requesting service. This is known as route deviation service. A passenger requesting route deviation service must call for the reservation the day before the ride is needed.

The regulations can be found in 49 CFR Parts 27, 37, & 38 and are available at the Federal Transit Administration's (FTA) website www.fta.dot.gov

Described below under Olean, St. Bonaventure, Village of Allegany Service Options E & F, the City of Olean requests an hourly rate to operate OATS Olean, St. Bonaventure, and Village of Allegany service, using the Proposer's vehicles approximately between the term of August 22, 2024, to December 12, 2024, and between January 11, 2025, and May 19, 2025. If a wheelchair-

equipped vehicle is not available to provide the transit service specified under Options E & F and a disabled passenger requires wheelchair service during the operation of service under Options E & F, the contractor will be required to dispatch a wheelchair equipped vehicle to the individual to complete the requested trip consistent with the OATS bus service schedule. If the Contractor dispatches a City of Olean -owned, wheelchair equipped bus for the requested ride, the Contractor will be reimbursed in the amount of the hourly rate specified in response to Option A. If the Contractor dispatches its own wheelchair equipped bus for the requested ride, the Contractor will be reimbursed in the amount of the hourly rate specified in response to Option A1 or B1 or C1 to accommodate the requested ride.

OATS ADA Paratransit Policy:

For the operation of OATS, the City of Olean provides buses equipped with wheelchair lifts on its fixed routes, with route deviation by prior request, during its hours of operation Monday through Saturday, except for the hours of 7:30 p.m. to 12:30 a.m. Thursdays and Fridays, and 11:00 p.m. to 3:00 a.m., Thursday, Friday, and Saturdays.

During the specified times that wheelchair equipped vehicles are not used to provide fixed route deviation service, OATS shall provide paratransit service to individuals with disabilities that are eligible for ADA paratransit service that is comparable to the level of service provided to individuals without disabilities who use the fixed route system. Paratransit means comparable transportation service required by the ADA for individuals with disabilities who are unable to use fixed route transportation systems. Paratransit service is available within $\frac{3}{4}$ mile of the fixed route during the aforementioned hours of operation.

The fare for a trip charged to an ADA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity's fixed route system. A personal care attendant shall not be charged for complementary paratransit service.

To schedule the ADA paratransit service, individuals eligible for service should call the City of Olean Department of Community Development during regular office hours, Monday through Friday, except holidays, between the hours of 9:00 a.m. and 5:00 p.m., the day before the request for scheduled paratransit service. Individuals may contact the Olean Department of Community Development to obtain information concerning eligibility for paratransit service. The phone number is 716-376-5647.

ADA Paratransit Eligibility information:

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1) The phrase physical or mental impairment means--

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine;

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii) The term physical or mental impairment includes, but is not limited to, such contagious or non-contagious diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart

disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease, tuberculosis, drug addiction and alcoholism;

(iv) The phrase physical or mental impairment does not include homosexuality or bisexuality.

(2) The phrase major life activities mean functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and work.

(3) The phrase has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) The phrase is regarded as having such an impairment means--

(i) Has a physical or mental impairment that does not substantially limit major life activities, but which is treated by a public or private entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others toward such an impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public or private entity as having such an impairment.

(5) The term disability does not include--

(i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania;

(iii) Psychoactive substance abuse disorders resulting Individuals may be ADA paratransit eligible on the basis of a permanent or temporary disability.

The following individuals are ADA paratransit eligible:

(1) Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable individuals with disabilities.

(2) Any individual with a disability who needs the assistance of a wheelchair lift to board, ride and disembark from any vehicle on the fixed route during the hours of operation when such a vehicle is not being used to provide designated public transportation on the route.

Fares. The fare for a trip charged to an ADA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare

(i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity's fixed route system. A personal care attendant shall not be charged for complementary paratransit service.

Lobbying – Applicability - Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$100,000.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of

Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

Government-wide Debarment and Suspension (Nonprocurement) – Applicability – Contracts over \$25,000.

The City of Olean agrees to the following: (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following: (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200, 2 U.S. OMB, “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, “Debarment and Suspension,” 31 U.S.C. § 6101 note, (b) It will review the U.S. GSA “System for Award Management,” <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200, and (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the “System for Award Management” at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and (2) If the Recipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel.

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 Performance of Contract with City of Olean (Appendix B).
3. Legal Status Information (Appendix C).
4. Non-Collusive Bidding Certification (Appendix D).
5. Ineligible Contractor Certification (Appendix D-1)
6. Certification on Government-wide Debarment and Suspension (Appendix D-2)
7. Restrictions on Lobbying Certification (Appendix D-3)
8. Name and contact information for a person at a bank who can verify the proposer's financial stability. (See Appendix A, Section III (A).)
9. Provide three (3) references from previous or current contracts, whereby the Respondent has provided or is providing similar fixed-route, route deviation bus services, to the services requested in this Request for Proposal document, to a municipal organization. (See Appendix A, Section III (B).)
10. List of vehicles, including backup vehicles. (See Appendix A, Section V, subsection F). *To be submitted by the Successful Proposer upon request of the City no later than ten (10) days prior to the commencement of the Transportation Services.* The City of Olean reserves this right to request the list of vehicles no later than (10) days prior to the commencement of the Transportation Services but, Respondents to this Request for Proposal shall provide a list of vehicles that will be used to provide service specified in Appendix E –Option E and Option F and a list of back-up vehicles that will be used to provide services in the event that City-owned vehicles are not available due to maintenance or warranty services. The list of vehicles shall include vehicle age and condition, as the age and condition of all contractor-owned vehicles that will be provided are included among the proposal evaluation criteria. For services to be provided under Option E and Option F, this Request for Proposal requests 52-60 passenger standard school bus style vehicle(s). These vehicles shall be painted white body. If respondents to this RFP want to provide vehicles of another color for services to be provided under Option E and Option F, the respondent must indicate the color of the 52-60 passenger vehicle to be proposed for service. The color of 52-60 passenger school bus style vehicles proposed for service associated with Option E and Option F will be evaluated under the Proposal Evaluation Criteria. The age and condition of contractor-owned vehicles should be provided and should be available for City of Olean inspection prior to the contract award.
11. FCC Radio License Number(s). (See Appendix A, Section V, (N)). *To be submitted by the Successful Proposer no later than ten (10) days prior to the commencement of the Transportation Services.*

12. List of certified drivers. (See Appendix A, Section VII, A.). *To be submitted by the Successful Proposer no later than ten (10) days prior to the commencement of the Transportation Services.*
13. Certificate of Insurance (Seen Appendix A, Section IX). *To be submitted by the Successful Proposer within ten (10) business days following the date of notification of award.*
14. Information in response to Evaluation Factors. *The Respondents to this Request for Proposal are requested to provide information that will demonstrate the firm's capabilities and responsiveness to the listed Proposal Evaluation Factors, by which, proposals will be evaluated. Information submitted shall be limited to 20 pages.*
15. Appendix H: Acknowledgement of Receipt of RFP, Addendum(s), and Responses to Questions and Requests for Clarifications

Appendix A

SPECIFICATIONS FOR OLEAN AREA TRANSIT SYSTEM BUS SERVICE DURING THE PERIOD FROM JUNE 1, 2024 THROUGH MAY 31, 2025

I. SCOPE

- A. The City of Olean, New York (the “City”), requires a third-party contract operator, as described below, to operate route deviation service on five fixed routes, within the City of Olean and its environs, on the days and during the hours shown on Appendix E. Please know that the projected hours of service for each OATS bus route shown in Appendix E represent the maximum number of hours of service that may be awarded in response to this Request for Proposal. The City of Olean reserves the right to consider the responses to this RFP and award a contract for a specific number of hours of scheduled transit service after an evaluation of the cost to operate transit services and the availability of financial resources to reimburse OATS system expenses. Historical ridership on individual runs of each OATS bus route will contribute to the determination of the hours of service that will be awarded under this contract.
- B. The City of Olean owns a fleet of five medium duty, mid-size buses, equipped with wheelchair tie-downs that will be used by the third-party contract operator to provide scheduled OATS services. The OATS Rolling Stock Inventory is listed in Appendix F of this document. When City-owned buses are not available to provide scheduled OATS service, contractor-owned vehicles will be used. On one route, the St. Bonaventure shuttle bus route, the City of Olean will provide a City-owned bus for the operation on Monday and Wednesday and Saturday. For Thursday and Friday operation of the St. Bonaventure shuttle bus route, the contractor will provide the bus. Additionally, during the Spring semester, the St. Bonaventure shuttle service may require the operation of a second shuttle bus on a total of sixteen (16) Friday and Saturday nights. If the second shuttle bus is requested by St. Bonaventure the contractor will be required to provide buses for this service. No spare bus is required to be available on the occasions that a second late night bus is requested to provide St. Bonaventure Late-Night service.

The hours of service and the preliminary route and stops will be as set forth on Appendix E. It is projected that each route will require one (1) Vehicle, as specified in Appendix E. The City of Olean will provide City-owned vehicles for the operation of four fixed, route deviation service, bus routes including Olean City, Downtown Olean Destinations Circulator, Olean-Salamanca-Seneca Allegany, and Monday-Wednesday-Saturday St. Bonaventure shuttle bus services.

The City of Olean requires third-party contractor owned and operated vehicles to provide for the operation of fixed, route deviation service, bus routes with complementary paratransit service as requested in accordance with the City of Olean Paratransit Policy,

between the City of Olean, St. Bonaventure University, and the Village of Allegany during the St. Bonaventure University academic year. The Contractor will be required to provide buses for the operation of Thursday and Friday St. Bonaventure shuttle bus service and Thursday, Friday, and Saturday St. Bonaventure late night bus service. The hours of service and the route and stops associated with the St. Bonaventure University service are set forth in Appendix E. It is projected that each route will require one (1) Vehicle, as specified in Appendix E. For establishing the magnitude of service associated with St. Bonaventure for this Request for Proposals, the St. Bonaventure service quantities are based on estimated service start and end dates and number of days. The actual number of days and associated hours of St. Bonaventure service will be determined by St. Bonaventure at the time that the 2024-2025 St. Bonaventure University academic calendar is established.

- C. It is to be specifically noted that the route and the stops may be altered from time-to-time in order to meet the evolving needs of the current and projected future passengers and that additional routes may be added and/or current routes eliminated.
- D. It is intended that, to the extent possible, route schedule(s) will be designed to coincide with the schedule of other transportation facilities available within the City of Olean and environs with other destinations and/or points of origin.
- E. Service will be “curb to curb.”
- F. It is intended that ridership on the vehicles will include the general public, clients of the Cattaraugus County Department of Social Services (CCDSS), the One Stop Career Center, clients of other Cattaraugus County departments; clients of Intandem; students, faculty and staff of St. Bonaventure University; City of Salamanca and/or other agencies of Cattaraugus County, the City of Olean or the Seneca Nation of Indians.
- G. The third-party contract operator of OATS service will provide a dispatcher on duty and able to receive and respond to calls from the City of Olean, Driver(s) of the Vehicle(s), and the general public, at all times during transportation hours. The third-party contract operator will provide a phone number, through which the dispatcher will respond. Notwithstanding this, such dispatcher shall be available to receive calls and respond to the City of Olean not less than at all times from 9 am to 5 pm, Mondays through Fridays.
- H. Fares will be paid by the passengers by means of passes or other collectable items issued by individual departments or agencies of the City or County, by tokens issued by the City or County or its departments or agencies, or in cash. As provided in Section VI (U) below, the Driver of the Vehicle(s) shall ensure that the proper fare is received from each passenger.
- I. To the extent that cash fares are to be paid, the City of Olean will determine the fare schedule. The City at its sole discretion may alter this fare schedule. Cash fares collected by the Contractor are collected for the purpose of contributing towards the cost of this service, or to such other use as may be determined by the City of Olean.
- J. As provided in Section XII (F), fares received from passengers, whether such fare consists of passes or other collectable items issued by individual departments or agencies of the City

or County, by tokens issued by the City or County or its departments or agencies, or in cash, shall be delivered to the City Clerk on a daily basis and reported to the City of Olean on a monthly basis.

- K. In accordance with the requirements of the ADA, the vehicle(s) that will be used to provide OATS bus service will be wheelchair compliant and equipped to accommodate individuals who are wheelchair bound. If the vehicles used to provide the regularly scheduled transit service are not equipped with wheelchair lifts, the operator will dispatch a complimentary wheelchair equipped vehicle to transport eligible individuals consistent with ADA regulations. For clarity, the term “OATS” refers to the routes servicing the City of Olean, St. Bonaventure, and Village of Allegany, and such other service that may be an expansion of any such OATS route, or a new OATS route.
- L. The Americans with Disabilities Act (ADA) requires fixed route public transportation systems to be accessible to individuals with disabilities, provide complementary paratransit to individuals with disabilities that are 3/4 of a mile from the fixed route and unable to reach the fixed routes stops, and accommodate passenger needs through alternative schedule formats and stop announcements. The paratransit requirement can also be met by deviating 3/4 of a mile with the fixed route vehicle to pick up any passenger requesting service. This is known as “route deviation service”. Individuals must request route deviation service the day before the desired ride to the City of Olean and/or the third-party contract operator. The operator will make the best effort to return to the published route schedule after accommodating a route deviation service request. Passenger fares for route deviation service shall be two times the regular published fare. However, a Personal Care Attendant identified through advanced trip reservations, as attending to the needs of a person with a disability or disabilities as defined by 49 CFR Part 37.123 will not be charged a fare.
- M. It is specifically noted that the service contemplated in the RFP is anticipated to be funded by State Transit Operating Assistance (STOA) and federal grants provided to the City, along with funding provided by Cattaraugus County, Intandem, the St. Bonaventure University, the Seneca Nation of Indians, the City of Salamanca and other agencies and municipalities in accordance with negotiated partnering agreements to finance the operation of OATS fixed-route, route deviation services.
- N. The City of Olean owns five medium sized buses, “Lot K” buses, also known as “Type VI” buses, seating capacity 28-34, including 3 wheelchair tie-downs, which shall be assumed to be available to the contract operator for OATS service. As specified in Appendix E, the City of Olean requests Proposers to provide an hourly rate to operate OATS services utilizing vehicles provided by the City of Olean and to provide services utilizing vehicles provided by the contractor between the period June 1, 2024, and May 31, 2025. The City of Olean bus fleet is detailed in Appendix F-OATS Rolling Stock Inventory.

Additionally, the respondent may be required to provide buses to provide regularly scheduled OATS service if City-owned buses are out of service for regularly scheduled maintenance, repairs, or warranty related services. Annually, the City of Olean budgets approximately 650 hours of bus substitution costs to reimburse the hourly rate cost

differential incurred using contractor-owned vehicles in place of City of Olean-owned vehicles. Contractor provided buses must have the same passenger seating and wheelchair tie-down capacity (seating capacity at least 28 with 3 wheelchair tie-downs) as the City-owned buses used in daily scheduled transit service. In response to this Request for Proposals, the respondent is requested to provide a list and description of buses that will be available to provide scheduled OATS service.

- O. If the City of Olean provides the contractor with City-owned vehicles for the purpose of providing OATS service, a written Lease Agreement shall be made and become an Addendum to this Agreement. The vehicle(s) will be leased for \$1.00 per year. If the contractor uses City-owned vehicles, the contractor shall be responsible for fueling, maintenance, cleaning, inspections, storage, licensing and repairs and all costs associated with same. The City reserves the right to insure that vehicles are being stored and maintained properly and are in safe operating conditions. Therefore, the City of Olean may inspect vehicles at any reasonable time and may bar a vehicle from service until the problem(s) are corrected. The contractor is required to maintain each bus in accordance with federal and state compliance review guidelines and provide maintenance records for each bus. Vehicles leased to the contractor by the City are to be used solely for the provision of this service. Personal usage and/or use for any other purpose are strictly prohibited. Smoking, eating or drinking in City-owned vehicles is also prohibited.
- P. Additional Bus Routes or Service. The City of Olean intends to evaluate the need for additional bus routes and transit service coordination opportunities with other public transportation services operating in the City of Olean, Cattaraugus County, and the environs. The City and the CODCD reserve the right to alter the schedule and to increase or decrease the number of days on which the Vehicles are to be run, to increase or decrease the number of hours of operation on any given day, and to alter the routes and/or the stops. The hourly rates established in Appendix E will provide the basis for reimbursement for such service changes.

In the event that the City of Olean determines, in its sole discretion, that the addition of additional transit route(s) is desirable during the estimated contract period, the City reserves the right to supplement this agreement to provide extra transit services and utilize the hourly rates established in Appendix E.

- Q. On-board camera security monitoring. City-owned buses utilized in the operation of the OATS system have been equipped with an on-board camera security monitoring system known as Drive Cam. The on-board security cameras and monitoring system were provided by the third-party contract operator of OATS. The City of Olean asks to continue the utilization of an on-board camera security monitoring system such as the Drive Cam system for the operation of OATS buses. To this objective, the contractor will be required to equip City-owned buses that will be used in OATS service with the Drive Cam on-board camera security monitoring system or an approved equal.

II. CONTRACT TERM

- A. The contract is anticipated to be a multi-year agreement. The first contract year is from June 1, 2024, to May 31, 2025. Contract extensions by exercising contract options will be considered by the Mayor and Olean Common Council, annually.
- B. The City shall have three separate and consecutive options to extend any contract awarded in connection with the proposals submitted for additional periods of one (1) year each at a price to be negotiated as follows: During any optional extension period, the contract amount will increase annually by an amount equal to the **lesser** of:
 - a. a five percent increase; or
 - b. the percent “annual” increase in the Consumer Price Index All Urban Consumers, US City Average, (CPI-U), Table 2., All Items, for the most recent calendar year for which a number has been published.
 - c. the percent “annual” increase in the Consumer Price Index All Urban Consumers, US City Average, (CPI-U), Table 2., intracity mass transit, for the most recent calendar year for which a number has been published.
- C. Each option shall be exercised in writing, and such option period shall commence upon the expiration of the immediately preceding contract period.
- D. In the event the City exercises its option to extend the contract period, all the terms and conditions of the contract shall apply.

III. CREDENTIALS

Each proposal must be accompanied by a certified statement of the proposer, 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 proposer, and the name, address, and telephone number of a person at such bank who can provide such reference.
- B. Provide three (3) references from previous or current contracts, whereby the Respondent has provided or is providing similar fixed-route, route deviation bus services, to the services requested in this Request for Proposal document, to a municipal organization. The Respondent shall provide the name, address, and telephone number of contacts who can evaluate the proposer’s performance of such contract.
- C. A Certificate of operating authority to act as a contract carrier of passengers for the New York State Department of Transportation. The apparent winning proposer, upon being notified of the City of Olean’s intent to award the contract, shall immediately apply for any necessary amendments to their operating authority to provide the intended service. If the apparent winning proposer does not currently have a certificate of operating authority, upon being notified of the City of Olean’s intent to award the contract, shall immediately apply for operating authority to provide the intended service, Failure to be granted authority will be a basis for disqualifying the proposer from being awarded the contract.

IV. DEFINITIONS

Whenever, in this RFP, 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 City prior to the receipt of bids.
- C. “Agreement” shall mean the written agreement between the City and the Contractor covering the Service. The terms “Agreement” and “Contract” shall have the same meaning and may be used interchangeably.
- D. “Bid” shall mean the offer submitted in the prescribed form setting forth the prices for the Services to be performed.
- E. “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.
- F. “Client” shall mean a transportation service recipient who is involved/eligible for one or more of the programs sponsored by any department or agency of the City, the County, Cattaraugus County Department of Social Services, by One Stop, by Intandem, by the City of Salamanca, by the St. Bonaventure University, or any member of the general public requesting transportation on the vehicle.
- G. “Client Assistance” shall mean to guide, direct and/or provide physical assistance to the Client, as required, to carry out the trip’s purpose.
- H. “Contract” or “Contract Documents” shall mean this Request for Proposal document in its entirety, including the Public Notice, and 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.
- I. “Contractor” or “Successful Proposer” (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 individual, organization, company or agency awarded the bid through this procurement. The Contractor is sometimes herein referred to as the “Transporter” or the “Operator”.
- J. “Contract price” shall mean the total monies payable to the Contractor under the Contract.
- K. “City” shall mean the City of Olean, a municipal corporation organized under the laws of New York State.
- L. “County” shall mean the County of Cattaraugus, a municipal corporation organized under the laws of New York State.

- M. “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.
- N. “Modification Agreement” shall mean a written order to the Contractor, signed by the City, authorizing an addition, deletion, or revision of the Services or an adjustment in the Contract Price issued after execution of the Agreement.
- O. “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 Proposal and deposited in a postpaid wrapper in any post box regularly maintained by the United States Postal Service.
- P. “Notice of Award” shall mean the written notice given by the City to the Successful Respondent to this Request for Proposal.
- Q. “Notice to Proceed” shall mean the written notice given by the City to the Contractor of the date for the commencement of the Services.
- R. “Recipient” shall mean the City of Olean as the grant recipient of Federal Transit Administration and New York State Department of Transportation funding.
- S. “Route” shall mean the path of a Vehicle from the location of its first scheduled stop to the location to the same point. In addition, the Route will be the path defined on the bus schedule, as that schedule may be altered from time-to-time.
- T. “RFP” shall mean and refer to this Request for Proposals.
- U. “Proposal” shall refer to the offer submitted in the prescribed forms setting forth the prices for the Services to be performed and the information provided to permit the evaluation of factors, by which, the proposal will be evaluated.
- V. “Respondent” shall refer to an organization which submits a proposal to provide the service requested in this Request for Proposal document.
- W. “Successful Bidder, Proposer, or Respondent” shall refer to the organization whose proposal to provide the services requested in this Request for Proposal has been evaluated by the City of Olean in accord with stated proposal evaluation factors and has been selected for contract award.
- X. “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.

- Y. “Transporter” or “Operator” or “Carrier” shall mean the Contractor. When used, this term is a descriptive of the services provided by the Contractor.
- Z. “Bus” shall mean, as the context requires, a Vehicle capable of seating at least 28 (with wheelchair tie-downs) adult passengers (all seating capacities stated are “adult passengers”) and conforming to all Federal State and local laws and regulations, and all City policies as set forth in this document. Under Appendix E, Option F, the vehicle used in service will have a seating capacity of 52-60 passengers. Except as specified in Appendix E, Options E & F, all Buses used in the performance of the services described herein shall be wheelchair accessible and include, at least, two wheelchair tie-down locations.
- AA. “Vehicle” shall mean and refer to any Bus, including spare or replacement therefore, used for the rendering of the Services, and which meet or exceed the Technical Specifications.
- BB. “Section 5311 funding” means federal funding made available through section 5311 of the Federal Transit Administration program, which is administered by the New York State Department of Transportation (NYSDOT).
- CC. “STOA” means New York State funding available through participation in the Statewide Transit Operating Assistance program.
- DD. “Local funds” means funding available from local funding partners contributing to the operation of the OATS system.
- EE. “Vehicle Revenue Hours” means the measure of scheduled hours of service available to passengers for transport on the routes.

V. TECHNICAL SPECIFICATIONS

Service Requirements

- A. *Service Area:* The overall service area for the Services in connection with the operation of the three routes are the City of Olean and its environs in Cattaraugus County, the Villages of Cuba and Allegany, the City of Salamanca, and the Allegany Territory of the Seneca Nation, New York and to any extended area within the County of Cattaraugus and its environs.
- B. *Accidents, Incidents and Complaints:* It is expected that the Contractor will render the Services in a safe, efficient and courteous manner. In this regard, the City of Olean will institute specific procedures for the reporting of accidents and incidents. It is expected that the Contractor will report all such matters to the City of Olean.

In addition, the passengers to be transported may report complaints and incidents to the City of Olean Department of Community Development. If such matters are reported, the Contractor will cooperate fully in the resolution of such matter, and if the City requires the reassignment of a Driver as part of such complaint resolution, such reassignment shall be made with due dispatch.

In accordance with FTA Title VI guidelines, the contractor is required to maintain a record of complaints, including tracking and the response to any complaints received. The City of Olean Civil Rights Statement and “Your Rights Under the Title VI of the Civil Rights Act of 1964” are included in Appendix G and G-1, respectively, of this Request for Proposal document. The contractor will be expected to facilitate City of Olean compliance with the attached Title VI policy, including the resolution of any complaints received associated with the performance of this contract.

- C. *Service Exclusivity:* The Vehicles assigned by the Contractor to provide the service described in this RFP with respect to the routes or any of them shall be always for the exclusive use of the City during the hours set forth in Appendix E or such greater or lesser number of hours as the City may designate from time-to-time.
- D. *Changes in the Route:* The City of Olean Department of Community Development (CODCD) will have the right to make changes in route, at any time and from time-to-time, when it is deemed by such party to be in the best interest of the City to do so. The Contractor will be notified of such changes and will institute them as of the date specified in such notice. No change in the route will require the Vehicle to run outside of the Service Area described in Section A., Technical Specifications, above.
- E. *Bus Schedules:* The CODCD has created schedules showing the stops the Bus will make and the times at which the bus is scheduled to arrive at those stops along the three routes. The current Schedule of Operations is included in Appendix E. Such schedules may be adjusted as required by changes in the route or stops designated by the City of Olean. Notwithstanding the foregoing:
 - i. The Vehicle will be required to stop and pick up passengers who flag the Vehicle down along its designated route, provided it is safe to do so;
 - ii. The Vehicle will be required to stop when a passenger on board so requests, and permit such passenger to debark, provided it is safe to do so; and
 - iii. The CODCD shall make the final determination as to designated stops the vehicle will make.
 - iv. As defined by I. SCOPE, Paragraph J, individuals can request route deviation service two days in advance to the Contractor and the Contractor will schedule pick up and return of the passenger. The Contractor will make the best effort to return to the published route schedule after accommodating a route deviation service request.
- F. *Number of Vehicles Required:* It is anticipated that one (1) Vehicle will be required for each of the three OATS bus routes that travel in the City of Olean. The City of Olean owns five medium sized buses, “Lot K,” seating capacity 28-34 with 3 wheelchair tie-downs which are available to the third-party contract operator for OATS service. Given the current operations schedule, one of these vehicles shall be assumed to be available and used to provide St. Bonaventure shuttle service available as detailed in Appendix E, Option D.

Notwithstanding this, the Contractor will identify a sufficient number of substitute or “backup” vehicles to ensure that the Service described in this RFP is not interrupted. To ensure that regularly scheduled OATS service is not interrupted, the contractor shall identify at least two contractor-owned vehicles as substitute or “back-up” vehicles for use under this contract. Thus, the respondent will be required to provide contractor-owned buses to provide regularly scheduled OATS services if City-owned buses are out of service for regularly scheduled maintenance or warranty related services.

For information, annually, the City of Olean budgets approximately 650 hours of bus substitution costs to reimburse the hourly rate cost differential incurred using contractor-owned vehicles in place of City of Olean-owned vehicles. Contractor provided buses must have the same passenger seating and wheelchair tie-down capacity as the City-owned buses used in daily scheduled transit service. The City of Olean reserves the right to review and approve the number available and the condition and use of substitute or back-up vehicles to provide scheduled transit service. If the number or condition of available substitute vehicles do not satisfy City of Olean review and approval, the contractor will be required to increase the number and/or improve the condition or obtain substitute vehicles for use in scheduled transit service.

With respect to Olean, St. Bonaventure University, Allegany services, respondents to this RFP must identify: an acceptable spare bus to operate the Monday, Wednesday, and Saturday SBU shuttle service; one contractor-owned vehicle and acceptable spare bus to operate the SBU Thursday and Friday night shuttle service, one contractor-owned vehicle and acceptable bus spare to operate the SBU Late-Night service, and one contractor-owned bus to provide the second Late-Night bus service on up to 16 Friday and Saturday nights as discussed above.

Respondents to this Request for Proposal shall provide a list of vehicles that will be used to provide services if City-owned vehicles are not available due to maintenance or warranty services. Age, current mileage, seating capacity, number of wheelchair tie-down locations, vehicle length, and condition of substitute or back-up vehicles should be provided and should be available for City of Olean inspection prior to contract award.

- G. *Use of City of Olean-Owned Vehicles:* At the City’s instruction, provided they meet the requirements set forth herein, the contractor shall utilize vehicles owned by the City in the performance of the services to be provided hereunder.

Equipment Requirements

- H. Any Vehicles used to provide the services requested under this Request for Proposal 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 City and local statutes, rules and regulations governing or pertaining to the public transportation of passengers on type of vehicle to be used.
- I. All Vehicles used by the Contractor must be inspected and registered as required for Vehicles providing the specific services described herein. Such inspection shall be maintained as current, and the Vehicle(s) shall display a current inspection and registration

sticker at all times. The Contractor must be able to supply Vehicles (and substitute Vehicles, if necessary to maintain continuous service) meeting Federal, State and local requirements as of the date of the Commencement of Services. No less than ten (10) days prior to the Commencement of Services, the Contractor will provide the CODCD with the VIN number(s), registration number(s) and date(s) and inspection date(s), with respect to Vehicles to be used in connection with the services described in this RFP (including any spare or substitute Vehicles). The Contractor will provide the CODCD with the same information with respect to any Vehicles added as available for the services.

- J. All vehicles used in the performance of the Services must be equipped with a seat belt cutter, “lock-downs” for wheelchairs, 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. The Bus shall be wheelchair accessible. If the vehicle used in transit service is not equipped with wheelchair accommodation, the contractor will be obligated to provide wheelchair service in accord with the City of Olean paratransit policy. Paratransit vehicle requirements are specified under Additional Terms and Conditions, Accessible Service, in this RFP document.
- K. Regrooved or recapped tires of any type are not acceptable in the performance of the Services.
- L. The City shall have the right to inspect each Vehicle used to provide the services described in this RFP and all maintenance records concerning those Vehicles. As requested by the City, the Contractor shall provide the City with copies of the maintenance records for each such Vehicle.
- M. No Vehicle used to provide Services shall be used to display any advertisement, political or otherwise, without the express written authorization of the City. Notwithstanding this:
 - i. In the event the Contractor has the ability to sell space for non-political advertising on the Vehicle(s), the Contractor will promptly notify the CODCD and provide details concerning same, and the CODCD’s decision concerning whether to permit such advertising shall be final;
 - ii. In the event the CODCD has the ability to sell space for non-political advertising on the Vehicle(s), the Contractor shall place such advertisements as directed; and
 - iii. In any event in which space for such advertising the Vehicle(s) is sold, the CODCD and the Contractor shall equally share the gross receipts with respect to same.
- N. The Contractor will install and maintain an FM mobile two-way radio, mobile phone or other means of communication acceptable to the City of Olean in all Vehicles used to furnish Services hereunder. In the event 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 City Administrative personnel.

- O. All Vehicles as well as back-up and/or substitute vehicles used in connection with the services discussed in this RFP shall carry signage that clearly identifies such vehicle as providing service for the Olean Area Transit System, or "OATS". Such signage shall be in a form and size to be approved by the CODCD and shall be prominently displayed on the front and sides of the Vehicle(s). In this regard, promptly after the Contractor receives the Notice of Award, it will present such signage to the CODCD for approval.
- P. The Contractor will install and maintain GPS equipment in all Vehicles used to furnish Services hereunder. Such GPS capability shall enable the contractor to record the location and time of each stop along each route. Such records of stops and times shall be made available to the City upon request.
- Q. The Contractor's Maintenance Facility at which the OATS buses will be serviced and maintained does not need to be located in Cattaraugus County.

VI. OPERATIONS AND PROCEDURES

- A. On-time service shall be defined as service within a ten-minute window of the scheduled arrival time at each stop.
- B. All Vehicles used in connection with the services discussed in this RFP shall be kept in excellent mechanical condition and shall be kept clean inside and out.
- C. The City of Olean has developed service schedules and stops for the five bus routes. The schedules are detailed in Appendix E. Thereafter, from time-to-time the CODCD will review and reserve the right to modify the schedule. In any event the CODCD shall have the sole right and authority to create new routes and/or alter the said schedule with regard to existing routes.
- D. In addition to the CODCD's sole authority as set out in section I above, the CODCD shall have sole authority to determine the size, shape, design and contents of any and all printed bus schedule(s).
- E. Reproduction and distribution of the schedule of stops along the route shall be the responsibility of the CODCD. The CODCD may use assistance from partner organizations to assist in the reproduction and distribution of schedules. The requested proposal therefore should not include a cost factor for such reproduction.
- F. All passengers riding on the buses are to board and be discharged at designated stops. Notwithstanding the establishment of designated stops along a designated route, the Vehicle is required to stop when flagged down by passengers along the route and allow such passengers to board, and the vehicle shall be required to stop when requested by a passenger on board, and permit that passenger to debark, provided it is safe to do so.
- G. The Contractor shall have a dispatcher on duty and able to receive and respond to calls from the CODCD, Driver(s) of the Vehicle(s), and the general public, at all times during

transportation hours. Notwithstanding this, such dispatcher shall be available to receive call and always respond to the CODCD not less than from 9 am to 5 pm, Mondays through Fridays.

- H. In any and every event in which a Vehicle is involved in an accident, breaks down, or is otherwise prevented from continuing on-time service, the Contractor will immediately dispatch a spare vehicle to ensure that the services hereunder continue with the least possible delay. In addition, the Contractor will notify the CODCD of such accident, breakdown, or other delay, providing all information concerning same. Further, in the event such delay results from an accident, the Contractor will follow the procedure set forth in Section VI (V) below. In any event, prompt dispatch of a spare vehicle means that the spare is dispatched within one-half hour of the occurrence.
- I. The Contractor will ensure that the driver of the Vehicle collects a fare from each passenger riding on the vehicle. All fares collected shall be for the sole use and benefit of the City, and will be accounted for by the Contractor as provided in this RFP. The Contractor will not retain any fares collected. The only funds to be received by the Contractor are for the reimbursement of the hourly rate to be paid for the operation of the vehicle. It will be the obligation of the Contractor to ensure that all fares collected are accounted for to the CODCD as provided in this RFP. In the event that the rider does not have the proper fare, the driver will not allow the rider to board the bus.
- J. As indicated in Sections I (G) and (I) of this RFP, the fares may, at the election of the City be in the form of passes, receipts, tokens, transfers and/or cash. Regardless of the nature of the fare, it will be in the form of some item that can be collected by the driver of the Vehicle. The Contractor will be provided with specimen copies of acceptable items that may be used in payment of the fare. The Contractor will sort and record different fares received and provide a monthly summary of all fares received and delivered to the City.
- K. The amount of the fare shall be determined from time to time by the City in its sole discretion. In accordance with ADA requirements, route deviation fares will be two times the regular fare.
- L. As provided in Section XII (F) below, each day, at a time and place designated by the CODCD, the Contractor will give the lock-box containing all fares collected (whether passes or other collectable items issued by individual departments or agencies of the City or the County or other organizations selling or distributing fare media, by tokens issued by the City or the County or its departments or agencies or in cash) to the City of Olean Clerk.
- M. Records to be maintained by the Contractor shall remain available for inspection and/or copying during the term of the contract and thereafter at all times until instructed by the City that such records are to be delivered to the City or destroyed in accordance with the City's instructions.

Drivers Duties

- N. The Drivers shall present a neat appearance and must maintain a polite, professional and courteous attitude toward the public and all passengers. Because the Olean Area Transit System (“OATS”) provides a public service, and such appearance and attitude will encourage public use of the OATS Vehicle(s), this is of the essence of the agreement, and the Contractor shall specifically instruct the Drivers of this requirement. Failure to comply with this requirement shall be sufficient ground to request removal of a Driver.
- O. In accordance with State and local laws, Drivers shall not smoke on the Vehicle at any time. Drivers 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.
- P. No Drivers shall disembark from the Vehicle when passengers are inside, except 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.
- Q. Prior to the start of any route, the Driver shall perform a pre-trip inspection of the vehicle in accordance with the procedure established by the City and the New York State Department of Transportation. The driver shall also perform a post-trip inspection.
- R. The Driver shall immediately report to their supervisors any accident that occurs in connection with the Vehicle while transporting passengers or otherwise. Such report shall be made immediately by means of the telecommunications equipment on the Vehicle. The Contractor shall be required to submit a written report to the City on a form prescribed by the City, which complies with the requirements of Article 19-A of the Vehicle and Traffic Law and in a format mutually agreed upon by the City and the Transporter. This statement must be in writing and signed by the Driver and a supervisor and shall include the names of all passengers on the vehicle at the time of the accident.
- S. Drivers and Driver Assistants shall comply with procedures and communications in the event of snow and emergency days, vehicle emergencies and other potentially catastrophic weather concerns.
- T. The Driver shall ensure that a proper fare, whether it is a pass or other collectable item issued by individual departments or agencies of the City or the County, Intandem, the City of Salamanca, the St. Bonaventure University, the Seneca Nation of Indians, by a token issued by the City or the County or its departments or agencies, or in cash, is received from each rider. If a proper fare is not provided, or a proper pass is not shown, the Driver will not permit the rider to board the bus.
- U. It shall be the duty of the Driver to supervise the passengers for the duration of the route.
- V. “Trip sheets” are used during the operation of OATS service to record passenger boarding and alighting, mileage of revenue and deadhead service miles. The Driver is required to complete trip sheets completely and accurately. These reports will be provided to the City on a monthly basis.

Accidents

The City of Olean will provide the Contractor with accident and emergency procedures to be followed by Drivers, and staff. Prompt communication to the City is of the essence of the Contract for all accidents occurring while passengers are on board, or in connection with passengers boarding or leaving a Vehicle, and all other accidents. 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.
- ii. The Contractor shall immediately notify the City of Olean Department of Community Development of the location, extent of the accident, the names of the passengers involved, and a description of the accident/injuries.
- iii. The Contractor shall immediately dispatch a replacement vehicle.
- iv. The vehicle and the driver in the accident shall remain at the accident site until released by the police.
- v. The Contractor shall prepare accident/emergency reports for the New York State Department of Motor Vehicles, New York State Department of Transportation, and the City within twenty-four (24) hours, utilizing approved State and/or City forms.
- vi. The Contractor shall follow all requirements for notification of bus accidents in accordance with the requirements of the Public Transportation Safety Board and the required System Safety Plan.

VII. PERSONNEL REQUIREMENTS

- A. Each Driver shall be properly licensed for the type of Vehicle being used before the start of employment. A list of all certified Drivers and license numbers license class and endorsements with license expiration date will be provided to the City of Olean before any Driver begins to provide service hereunder. Such list shall be updated upon each and every change and submitted to the City. Article 19-A of the Vehicle and Traffic Law outlines the requirements applicable to drivers.
- B. The Contractor shall ensure that the Drivers provide the City with safe transportation, and shall ensure that the Drivers meet the following minimum qualifications:
 - i. No more than one (1) moving violation during the past five (5) years.
 - ii. No moving violations during the past twelve (12) months.

- iii. Under no condition will an applicant be accepted as a Driver 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.
 - iv. The Contractor shall maintain records concerning the Drivers' qualifications and clearances with respect to the matters described in sections (i) through (iii) above. The City shall be entitled to audit such records and make copies thereof.
- C. All Drivers shall have a Class B (with an S endorsement) or C (with an N1 endorsement) NYS CDL license (depending on the vehicle to be driven) with a P endorsement. Drivers will be appropriately licensed for the Vehicle being driven.
- D. A written record from the New York State Department of Motor Vehicles with respect to each Driver must be submitted to the City of Olean.
- E. At all times during the contract period, all Drivers shall be at least twenty-one (21) years of age.
- F. The Successful Proposer shall submit to the City a list of all Drivers who will provide Services hereunder, their license expiration date and a list of all their accidents and violations incurred in the past three (3) years. Such list shall be updated upon each and every change and submitted to the City.
- G. All Drivers shall operate vehicles at safe and reasonable rates of speed.
- H. Each Driver of a Vehicle shall be responsible for the complete control of his/her Vehicle and the passengers being transported therein.
- I. The City reserves the right to reject or require replacement of Drivers who are provided by the Contractor without being limited to considerations of social and driving records. In this regard, 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 for felonies or child or other abuses. With respect to child abuse clearances, In accordance with the provisions of New York State Social Services Law §424-a, the Contractors shall screen all Drivers and Monitors through the child abuse registry, and the Contractors shall maintain a record of submissions and clearances. Such reports shall be requested received by the Contractor no less than annually.
- J. The Contractor shall register the appropriate Department of the City with the NYS Department of Motor Vehicles' Driver Certification Unit as a contract holder.
- K. The Contractor and their Drivers are subject to Federal Transit Administration Drug and Alcohol Testing requirements. These requirements are included in Appendix G.

VIII. TERMINATION OF AGREEMENT

- a. Termination for Convenience – This Agreement may be terminated by the City of Olean upon no less than ninety (90) days written notice, without cause. Said notice shall be delivered by registered or certified mail, return receipt requested, or in person with proof of delivery.
- b. Termination by Reason of Withdrawal of Funding – At the City’s sole discretion, this Agreement may be terminated by the City in the event that all or any of the Federal, State, or local funding of the Service is withdrawn or terminated.
- c. Termination or Suspension – If the contractor, before completion, discontinues the project services, or if for any reason, the commencement, prosecution, or timely completion of the project by the contractor is rendered improbable, impossible, or illegal, or if the contractor defaults or fails to perform the work in accordance with this Agreement, the City, by written notice to the contractor, may terminate any or all of the City’s obligations under this Agreement or may suspend any or all of its obligations under this Agreement until the event or condition resulting in such suspension has ceased or been corrected.

Upon receipt of any such notice or termination or suspension, the contractor shall promptly carry out the actions required by such notice which may include any or all of the following: (1) termination or suspension of project activities and such other action as the City deems necessary; and (2) furnishing a status report of the project activities and a proposed schedule, plan, and budget for terminating or suspending the project.

If the contractor fails to furnish, within a reasonable time, a schedule, plan, and budget for the termination or suspension of the project, the termination or suspension shall be carried out in accordance with such terms and conditions as the City may impose.

- d. Events of Default
 - (1) Failure of the contractor to broker the services in a manner which enables the City and the contractor to remain in substantial compliance with the requirements of applicable Federal and State laws, rules and regulations, and with requirements of local ordinance and related rules and regulations.
 - (2) Willful falsification of data supplied to the City during the course of operations, including by way of example but not by way of exclusion, dispatch data, client data, response time data, financial data, or falsification or deliberate omission of any other data required under this Agreement.
 - (3) Deliberate and unauthorized scaling down of operations to the detriment of performance after notice to the contractor of the termination of the Agreement through competitive award of this service to another organization.

- (4) Willful attempts by the contractor to intimidate or otherwise punish employees who desire to interview with or sign contingent employment agreements with competing Proposers during a subsequent Proposal cycle.
- (5) Chronic and persistent failure of the contractor's employees to conduct themselves in a professional and courteous manner, and to present a professional appearance.
- (6) Failure by the contractor to furnish key personnel of quality and experience.
- (7) Failure by the contractor to cooperate with and assist the City in its takeover of the contractor's operations after a breach has been declared and confirmed by the City, as provided herein, even if it is later determined that such breach never occurred or that cause of such breach was beyond the contractor's control.
- (8) Abuse of the contractor's position to enhance the organization's profits, directly or indirectly through an outside business entity, at the expense of the City, by way of such practices as bias in trip assignment, receiving commissions, discounts, kickbacks, or other consideration from third parties.

IX. INSURANCE REQUIREMENTS

- A. Each proposer must have the following minimum coverages. If a proposer's policy does not strictly comply with these insurance specifications, then it 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 - \$1,000,000.00.

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

(Insurance Requirements for this contract is Classification "F")

City of Olean shall be included as an additional insured on all Certificates of Insurance. These Certificates (Acord 25 form) shall be included as part of the sealed response to this RFP. There must be a certification attesting that the policy will not be canceled or allowed to expire without 60 days prior notice to the City of Olean. 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 Proposer shall provide the City with a copy of all relevant policies clearly stating that the City of Olean has been added as an additional insured.

- B. The Contractor will take out and maintain, during the life of this contract, adequate Workers' Compensation Insurance, at not less than statutory rates, for all of the

employees who will be engaged in work under this contract in compliance with the Compensation Law of the State of New York. A copy of this insurance, on form C 105.2, shall be submitted to the City of Olean prior to onset of the contract (listing of this insurance on the Acord 25 form is not adequate).

- C. The Contractor will take out and maintain, during the life of this contract, adequate Disability insurance, at not less than the statutory rate, for all employees who will be engaged in work under this contract. A copy of this insurance, on form DB-120.1, shall be submitted to the City of Olean Prior to onset of the contract (listing of this insurance on the Acord 25 form is not adequate).

X. RATES AND SCHEDULE REQUIREMENTS

Respondents to this Request for Proposals shall provide hourly rates to provide City of Olean, Downtown Olean Destinations, Olean-Salamanca-Seneca Allegany Territory, and Olean, St. Bonaventure University, Allegany Service bus services during the term June 1, 2024, through May 31, 2025. These bus services will operate Monday through Saturday, except for specified holidays, in accordance with the Schedule of Operations detailed in Appendix E. As stated above, the projected hours of service for each OATS bus route shown in this Section X. and Appendix E represent the maximum number of hours of service that may be awarded in response to this Request for Proposal. The City of Olean reserves the right to consider the responses to this RFP and award a contract for a specific number of hours of scheduled transit service after an evaluation of the cost to operate transit services and the availability of financial resources to reimburse projected OATS system expenses for fiscal year 2024-25 starting on June 1, 2024.

The hourly rates will include:

1. the price of a qualified driver and assume the availability and use of a City of Olean-owned wheelchair-equipped 28-34 passenger bus, as well as an acceptable spare bus, and
2. the price of a qualified driver and a contractor-owned at least 28 passenger bus, as well as an acceptable spare bus. A bus without wheelchair accommodations may be proposed but, the contractor will be required to provide complimentary paratransit service as described in this RFP document.

These hourly rates will provide the basis for contract award and reimbursement for public transportation services provided.

Olean City Loop Service

The Olean City Loop bus service includes seven round trips per day, Monday through Saturday, which begins at 7:15 a.m. and ends at 6:36 p.m. On 254 Weekdays, Mondays through Fridays, 10.5 hours of City Loop service will be provided. On 53 Saturdays, 10.25 hours of service will be provided. In total, based on 307 service days, 3,210 hours of City Loop service will be provided. For the Olean City bus service, the respondent should assume the availability and use of a City of Olean-owned wheelchair-equipped 28-34 passenger bus.

The estimated vehicle miles during the period of the contract are approximately 38,400 miles. The basis of estimated scheduled hours and miles is included in Appendix E. Additional miles,

estimated up to 10 percent of scheduled miles, may be required to accommodate route deviation service.

The hourly rate to provide the Olean City Service will include the price of a qualified driver and assume the availability and use of a City of Olean-owned wheelchair-equipped 28-34 passenger bus, as well as an acceptable spare bus.

Downtown Olean Destinations Circulator Bus Service

The Downtown Olean Destinations Circulator Bus Service operates Monday through Saturday on five continuous round trips, which begin at 9:00 a.m. and end at 5:41 p.m. each day. The five round trips include service in from the Olean Municipal Building, located at 101 East State Street, Olean, New York, to Olean General Hospital via Olean Center Mall and Delaware Park Centre Plaza and return to the Olean Municipal Building; from Olean Municipal Building to St. Bonaventure University Campus via Eighth and 15th Streets and Wal-Mart and return to the Olean Municipal Building; from Olean Municipal Building to Martha Avenue Apartments via Greene Street and West Riverside Drive and return to Olean Municipal Building; and from Olean Municipal Building to King Streets and return to Olean Municipal Building. This service operates 8.25 hours per day.

The Downtown Olean Destinations Circulator Bus Service operates one round trip, which begins at 6:40 p.m. and ends at 8:01 p.m. on Monday through Saturday. The round trip includes service from the Olean Municipal Building to Olean General Hospital via Olean Center Mall and Delaware Park Centre Plaza and return to the Olean Municipal Building; from Olean Municipal Building to St. Bonaventure University Campus via Eighth and 15th Streets and Wal-Mart and return to the Olean Municipal Building; and from Olean Municipal Building to King Streets and return to Olean Municipal Building. This service operates 1.25 hours per day.

In total, Downtown Olean Destinations Circulator Bus Service will operate 9.5 hours per day and is scheduled to operate 2,917 hours, based on 307 service days. For the Olean City bus service, the respondent should assume the availability and use of a City of Olean-owned wheelchair-equipped 28-34 passenger bus.

The estimated vehicle miles during the period of the contract are approximately 31,928 miles. The basis of estimated scheduled hours and miles is included in Appendix E. Additional miles, estimated up to 10 percent of scheduled miles, may be required to accommodate route deviation service.

The hourly rate to provide the Downtown Olean Destinations Circulator bus service will include the price of a qualified driver and assume the availability and use of a City of Olean-owned wheelchair-equipped 28-34 passenger bus, as well as an acceptable spare bus.

Olean-Salamanca-Seneca Allegany Territory (OS) Service

The Olean-Salamanca-Seneca Allegany Territory (OS) Service includes four round trips per day.

The round trips operate between the City of Olean, the City of Salamanca, and the Allegany Territory of the Seneca Nation. The daytime service includes stops at residential and client-based service facilities of the Cattaraugus Rehabilitation Center, Inc.

The Olean-Salamanca-Seneca Allegany Territory (OS) Service operates 13.0 hours per day Monday through Friday and is scheduled to operate 3,302 hours, based on 254 weekday service

days. The weekday round trips operate Monday through Friday beginning at 7:15 a.m. and end at 10:36 p.m.

The Olean-Salamanca-Seneca Allegany Territory (OS) Service operates 11.75 hours each Saturday and is scheduled to operate approximately 623 hours, based on 53 Saturday service days. The Saturday service on the Olean-Salamanca-Seneca Allegany Territory (OS) route begins at 9:41 a.m. and concludes at 12:05 a.m..

The total estimate of vehicles hours for the OS service is approximately 3,925 hours.

The estimate of vehicle miles for the Olean-Salamanca-Seneca Allegany Territory (OS) Service bus service during the period of the contract is approximately 84,600 miles. The basis of estimated scheduled hours and miles is included in Appendix E. Additional miles, estimated up to 10 percent of scheduled miles, may be required to accommodate route deviation service.

For the Olean-Salamanca-Seneca Allegany Territory (OS) Service bus service, the respondent should assume the availability and use of a City of Olean-owned wheelchair-equipped 28-34 passenger bus, equipped with three (3) wheelchair tie-downs.

The hourly rate to provide the OS bus service will include the price of a qualified driver and assume the availability and use of a City-owned wheelchair-equipped 28-34 passenger bus.

Olean, St. Bonaventure University, Allegany Service

As stated above, the actual days of service to be provided for the Olean, St. Bonaventure University, Allegany service will be defined at the time that the St. Bonaventure University 2024-25 academic calendar is published. The number of days and hours of service presented are to illustrate an order of magnitude of these services.

Respondents to this Request for Proposals shall provide an hourly rate to provide Olean to St. Bonaventure University to the Village of Allegany Shuttle bus service Mondays, Wednesdays, and Saturdays during the approximate term August 22, 2024 through December 12, 2024 and between January 11, 2025 and May 19, 2025, for an estimated 435 hours of service, 5 hours per day, over approximately 87 service days, except for specified holidays or when St. Bonaventure University is not conducting academic sessions, in accordance with the Schedule of Operations in Appendix E. Monday and Wednesday shuttle services are scheduled to operate between 7:30 p.m. and 12:30 a.m. Saturday shuttle service is scheduled to operate from 2:00 p.m. to 7:00 p.m.

This hourly rate will include the price of a qualified driver, as well as an acceptable spare bus, and assume the availability and use of a City of Olean-owned wheelchair-equipped 28-34 passenger bus, equipped with two wheelchair tie-downs.

Respondents to this Request for Proposals shall provide an hourly rate to provide Olean to St. Bonaventure University to Village of Allegany Shuttle bus service Thursdays and Fridays during the approximate term August 22, 2024 through December 12, 2024 and between January 11, 2025 and May 19, 2025, for an estimated 295 hours of service, 5 hours per day, over approximately 59 service days, except for specified holidays or when St. Bonaventure University is not conducting academic sessions, in accordance with the Schedule of Operations

in Appendix E. Thursday and Friday shuttle service is scheduled to operate between 7:30 p.m. and 12:30 a.m.

This hourly rate will include the price of a qualified driver and a contractor-owned at least 28 passenger bus to operate the Thursday and Friday night shuttle service, as well as an acceptable spare bus. A bus without wheelchair accommodations may be proposed but, the contractor will be required to provide complimentary paratransit service as described in this RFP document.

Respondents to this Request for Proposals shall provide an hourly rate to provide St. Bonaventure University to Village of Allegany Late Night bus service Thursday, Friday, and Saturday nights, during the approximate term August 22, 2024 through December 12, 2024 and between January 11, 2025 through May 19, 2025, for an estimated 344 hours of service, 4 hours per night, over approximately 86 service nights, except for specified holidays or when St. Bonaventure University is not conducting academic sessions, in accordance with the Schedule of Operations in Appendix E. Late Night bus service is scheduled to operate between 11:00 p.m. and 3:00 a.m. Additionally, during the Spring semester, St. Bonaventure shuttle service may require the operation of a second shuttle bus on a total of approximately sixteen (16) Friday and Saturday nights. The contractor will be required to provide contractor-owned buses for this service. As explained in the following paragraph, all SBU Late Night bus services require the use of a 52-60 passenger standard school bus style vehicle(s) with vehicle body painted white. This hourly rate will include the price of a qualified driver and a 52-60 passenger standard school bus style or a 52-60 passenger public transportation bus to operate the Late-Night service, as well as an acceptable spare bus. In total, with respect to Olean, St. Bonaventure University, Allegany services, respondents to this RFP must identify: an acceptable spare bus to operate the Monday, Wednesday, and Saturday SBU shuttle service; one contractor-owned vehicle and acceptable spare bus to operate the SBU Thursday and Friday night shuttle service, one contractor-owned vehicle and acceptable bus spare to operate the SBU Late-Night service, and one contractor-owned bus to provide the second Late-Night bus service on up to 16 Friday and Saturday nights as discussed above.

New York State Department of Transportation vehicle inspection criteria require that the 52-60 passenger standard school bus to be used in OATS public transportation service cannot be painted yellow because of the conflicting appearance to vehicles used for the transport of school children. It is suggested that the 52-60 passenger standard school bus style vehicle should be painted white. Any other vehicle color must be identified by the respondent to this Request for Proposals and will be evaluated by the City of Olean pursuant to Proposal Evaluation Factors. A bus without wheelchair accommodations may be proposed but, the contractor will be required to provide complimentary paratransit service as described in this RFP document.

In total, respondents to this Request for Proposal will provide hourly prices for City-owned and contractor-owned vehicles to provide the Olean, St. Bonaventure, Allegany bus services of approximately 1,074 hours. The estimated vehicle miles for the Olean, St. Bonaventure, Allegany bus services during the period of the contract are approximately 11,440 miles.

XI. FUEL

All fuel will be supplied by the Contractor. An escalator clause for fuel will not be included in the contract documents. Any changes in fuel costs are incorporated among the factors that result in the

published CPI-U percentage cost increase which will be used to set the hourly rate increase if an option to renew the contract is exercised.

XII. FINANCIAL AND REPORTING

- A. Contractors must bill on City vouchers, as applicable.
- B. All invoices with respect to services hereunder shall be presented no later than ten (10) days after close of the month during which such services were performed.
- C. Each day, at the time and at the place designated by the City of Olean Clerk, the Contractor will give the lock-box containing all fares collected (whether passes or other collectable items issued by individual departments or agencies of the City or the County, by tokens issued by the City or the County or its departments or agencies, or in cash) to the City of Olean.
- D. Within ten days of the end of each month, the Contractor shall submit to the City of Olean Clerk an accounting for all different fares received and delivered to the City.
- E. Within ten days of the end of each month, the Contractor shall submit to the City of Olean Clerk an accounting for all advertising revenue received by the Contractor with respect to the OATS vehicle(s) during the immediately preceding month.
- F. Statistical and Reporting
 - a. The contractor will prepare daily trip sheets and maintain accurate records of all of the transportation services provided pursuant to this Agreement and will assist the City of Olean in the preparation of reporting forms for Federal and State funding agencies. In this regard, under the funding requirements of the Statewide Transit Operation Assistance (STOA) program, the New York State Department of Transportation requires the Municipality to submit quarterly reports within fifteen days after the end of each calendar quarter. The statistical reporting called for herein is intended to assist the City of Olean in the preparation of said STOA quarterly reports.
 - b. The Statistical Report shall be submitted each month at the same time as the Invoice for Services. If the City opts to initiate the operation of an additional bus route, statistics will be reported for each route. These records shall include, but are not limited to:
 - 1. Number of Days in Service during the Month
 - 2. Number of Total Passengers
 - a. Number of Revenue Passengers
 - b. Number of Non-Revenue Passengers
 - c. Municipality of passenger origin
 - d. Municipality of passenger destination

- e. Other passenger information requested by City of Olean
 - 3. Number of Passengers by Fare Type
 - 4. Fare Box Revenue by Route
 - 5. Number of Total Vehicle Miles
 - 6. Number of Vehicle Revenue Miles
 - 7. Number of Non-revenue (deadhead) service miles
 - 8. Number of Total Vehicle Hours
 - 9. Number of Vehicle Revenue Hours
 - 10. Number of Non-revenue (deadhead) Vehicle Hours
- c. The contractor shall also report to the City, on a monthly basis, the following:
- 1. Number of Route Deviation Trip Requests
 - 2. Number of Missed Trips
 - 3. Synopsis of Customer Comments and Complaints identifying type of comment or complaint and complaint resolution.

XIII. PAST PERFORMANCE

In the review of all proposals, past performance and references from other projects (see Section III (B) and (C)) will be considered in making the final selection of Contractors. Before the final contract award is made, the City may conduct a performance review on each proposer likely to receive a contract award. The contract award will be made to the highest rated proposal after consideration of proposal evaluation factors.

XIV. BID IN EXCESS OF FUNDING

If the proposals received exceed the funding allotted for the services described in this RFP, the City of Olean reserves the right to reject all proposals. Likewise, the City may in any case refuse to award a contract if vehicles owned or leased or otherwise contracted for by the City can perform the route in question more economically.

Appendix B

BID FOR PERFORMANCE OF CONTRACT WITH CITY OF OLEAN OLEAN, NEW YORK

TO: City of Olean, Olean, New York, hereinafter called the City.

The undersigned, desiring to interpose a proposal to provide Olean Area Transit System (OATS) Bus Service in the City of Olean and environs 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 the City of Olean 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 proposal is accepted, he/she will contract with the City, 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 proposal prices set forth on the following specification sheets.

If this proposal is accepted by the City and the undersigned fails to contract as aforesaid, within ten days (not including Sunday) from the date of notice from the City to him/her, then the City may at its option, determine that the proposer 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 proposal 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 proposal.

Name and Address of Proposer:

Authorized Signature and Title

Signature
Title
Date

Appendix C
LEGAL STATUS INFORMATION

To facilitate correct drawing and execution of contract, proposer 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 PROPOSER:

Name: _____

Title: _____

Address: _____

PLEASE TYPE OR PRINT

Appendix D Non-Collusive Bidding Certification

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 proposal, each proposer 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 proposal 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 proposer or with any competitor;

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

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

(for use of individual proposer)

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 _____, 20__.

d/b/a _____

(for use of partnership proposer)

IN WITNESS WHEREOF, this non-collusive bidding certification has been subscribed, under penalties of perjury, at _____ on this ____ day of _____, 20__, 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 proposal)

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 proposer 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 _____, 20__.

Dated at _____ on this _____ day of _____, 20__.

(SEAL OF THE CORPORATION)

Secretary

Name of Proposer _____

Appendix D-1
Ineligible Contractor Certification

INELIGIBLE CONTRACTOR

The _____ here certifies that it is/is
not (circle one) included on the U.S. Comptroller General's Consolidated List of Persons or Firms
Currently Debarred for Violations of Various Public Contracts Incorporating Labor Standards Provisions.

By: _____
Authorized Official Signature

Appendix D-2
Certification on Government-Wide Debarment and Suspension

The respondent, _____, here certifies that it is/is not (circle one) included on the U.S. GSA “System for Award Management” list of contractors debarred or suspended except as authorized by: 1 U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200, 2 U.S. OMB, “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, “Debarment and Suspension,” 31 U.S.C. § 6101 note.

The respondent hereby certifies compliance with Federal debarment and suspension requirements, and has reviewed the “System for Award Management” at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200.

The respondent hereby certifies that no lower tier participant involved in the performance of this contract is included on the list of U.S. GSA “System for Award Management” list of contractors debarred or suspended.

The respondent certifies that any lower tier participant in this contract will comply with Federal Debarment and Suspension requirements and has reviewed the “System for Award Management” at <https://www.sam.gov> to comply with U.S. DOT regulations, 2 C.F.R. part 1200.

By: _____
Authorized Official Signature

Appendix D-3

Restrictions on Lobbying Certification

Pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] – The respondent, _____, here certifies compliance required by 49 CFR part 20, "New Restrictions on Lobbying."

The respondent certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352.

The respondent shall disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352.

The respondent certifies that any lower tier participant involved in the performance of this contract will comply with 49 CFR part 20, "New Restrictions on Lobbying."

The respondent certifies that any lower tier participant involved in the performance of this contract will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352.

By: _____
Authorized Official Signature

Appendix E

Requested Services and Bid Information

The following information is provided for the purpose of permitting respondents to this RFP to present their cost or bid proposal. While not anticipated during the term of this contract, it is specifically stated that the Vehicle Schedule provided in this Appendix E is current in nature and that the City reserves the right to alter the schedule and to increase or decrease the number of days on which the Vehicle is to be run, to increase or decrease the number of hours of operation on any given day, and to alter the route and/or the stops. No such alterations, however, shall require that the Vehicle be routed outside the City of Olean and its stated environs.

Availability of Vehicles from the City of Olean

The City of Olean owns five (5) medium sized buses, "Lot K" seating capacity 28-34, with 3 wheelchair tie-downs which are available to the Third-party contract operator for OATS service. These vehicles are assumed to be available to provide the Olean City, Downtown Olean Destinations, and Olean-Salamanca/Seneca Allegany services described below.

The City-owned vehicles are assumed to be available to operate St. Bonaventure University Shuttle Bus service on Monday, Wednesday, and Saturday during the St. Bonaventure academic year.

The respondent is requested to provide vehicles for St. Bonaventure University Shuttle Bus service on Thursdays and Fridays, as well as Late Night Service on Thursdays, Fridays, and Saturdays. The respondent is requested to provide complimentary paratransit service, consistent with the City of Olean Paratransit Policy, as needed to compliment contractor provided vehicles on the Thursday, Friday, and Late-Night Service.

If City-owned buses are out of service for regularly scheduled maintenance, repair, or warranty related services, the Contractor will be required to provide buses to provide regularly scheduled OATS services. Contractor provided buses must have the same passenger seating and wheelchair tie-down capacity as the City of Olean-owned buses used in daily scheduled transit service. In response to this RFP, the City requests a list detailing the substitute or back-up vehicles, including age, current mileage, seating capacity, number of wheelchair tie-down locations, vehicle length, and condition. The City of Olean reserves the right to review and approve the condition and use of substitute or back-up vehicles to provide scheduled transit service. If the substitute vehicles do not satisfy City of Olean review and approval, the contractor will be required to improve the condition or obtain substitute vehicles for use in scheduled transit service. For information, annually, the City of Olean budgets approximately 650 hours of bus substitution costs to reimburse the hourly rate cost differential incurred by the use of contractor-owned vehicles in place of City of Olean-owned vehicles.

Days of Operation:

Olean City Service

Downtown Olean Destinations Circulator Service

Olean-Salamanca-Seneca Allegany Territory (OS) Service

It is anticipated that these services will operate along the described routes Mondays through Saturdays between June 1, 2024, and May 31, 2025. Three hundred and seven (307) days of service are anticipated. The service will not run on the following holidays: the Fourth of July, Thursday, July 4, 2024; Labor Day, Monday, September 2, 2024; Thanksgiving Day, Thursday, November 28, 2024; for Christmas Day, Wednesday, December 25, 2024; for New Year's Day; Wednesday, January 1, 2025; and Memorial Day, Monday, May 26, 2025.

Olean-St. Bonaventure University-Village of Allegany Service

The Olean, St. Bonaventure, Village of Allegany bus services will operate during the Fall and Spring academic sessions of the University. For this RFP, the respondent should assume the Fall 2024 academic session for St. Bonaventure University to approximately include the term August 22, 2024, through December 12, 2024, and the Spring 2025 academic session should approximately include the term January 11, 2025, through May 19, 2025. Shuttle services are estimated to operate on 146 days, including one hundred and one (87) Mondays, Wednesdays and/or Saturdays and fifty-nine (59) Thursdays and/or Fridays. Late Night services are estimated to operate eighty-six (86) days during the 2024-25 SBU academic year. Additionally, St. Bonaventure University may require a second shuttle bus to operate on an estimated up to sixteen Fridays or Saturdays during the 2024-25 academic year.

Hours of Operation:

The route schedules are included in Appendix E.

Olean City Loop Service

The Olean City Loop bus service includes seven round trips per day, Monday through Saturday, which begins at 7:15 a.m. and ends at 6:36 p.m. On 254 Weekdays, Mondays through Fridays, 10.5 hours of City Loop service will be provided. On 53 Saturdays, 10.25 hours of service will be provided. In total, based on 307 service days, 3,210 hours of City Loop service will be provided. For the Olean City bus service, the respondent should assume the availability and use of a City of Olean-owned wheelchair-equipped 28-34 passenger bus.

The estimated vehicle miles during the period of the contract are approximately 38,400 miles. The basis of estimated scheduled hours and miles is included in Appendix E. Additional miles, estimated up to 10 percent of scheduled miles, may be required to accommodate route deviation service.

The hourly rate to provide the Olean City Service will include the price of a qualified driver and assume the availability and use of a City of Olean-owned wheelchair-equipped 28-34 passenger bus, as well as an acceptable spare bus.

Downtown Olean Destinations Circulator Bus Service

The Downtown Olean Destinations Circulator Bus Service operates Monday through Saturday on five continuous round trips, which begin at 9:00 a.m. and end at 5:41 p.m. each day. The five round trips include service in from the Olean Municipal Building, located at 101 East State Street, Olean, New York, to Olean General Hospital via Olean Center Mall and Delaware Park Centre Plaza and return to the Olean Municipal Building; from Olean Municipal Building to St. Bonaventure University Campus via Eighth and 15th Streets and Wal-Mart and return to the Olean Municipal

Building; from Olean Municipal Building to Martha Avenue Apartments via Greene Street and West Riverside Drive and return to Olean Municipal Building; and from Olean Municipal Building to King Streets and return to Olean Municipal Building. This service operates 8.25 hours per day.

The Downtown Olean Destinations Circulator Bus Service operates one round trip, which begins at 6:40 p.m. and ends at 8:01 p.m. on Monday through Saturday. The round trip includes service from the Olean Municipal Building to Olean General Hospital via Olean Center Mall and Delaware Park Centre Plaza and return to the Olean Municipal Building; from Olean Municipal Building to St. Bonaventure University Campus via Eighth and 15th Streets and Wal-Mart and return to the Olean Municipal Building; and from Olean Municipal Building to King Streets and return to Olean Municipal Building. This service operates 1.25 hours per day.

In total, Downtown Olean Destinations Circulator Bus Service will operate 9.5 hours per day and is scheduled to operate 2,917 hours, based on 307 service days. For the Olean City bus service, the respondent should assume the availability and use of a City of Olean-owned wheelchair-equipped 28-34 passenger bus.

The estimated vehicle miles during the period of the contract are approximately 31,928 miles. The basis of estimated scheduled hours and miles is included in Appendix E. Additional miles, estimated up to 10 percent of scheduled miles, may be required to accommodate route deviation service.

The hourly rate to provide the Downtown Olean Destinations Circulator bus service will include the price of a qualified driver and assume the availability and use of a City of Olean-owned wheelchair-equipped 28-34 passenger bus, as well as an acceptable spare bus.

Olean-Salamanca-Seneca Allegany Territory (OS) Service

The Olean-Salamanca-Seneca Allegany Territory (OS) Service includes four round trips per day.

The round trips operate between the City of Olean, the City of Salamanca, and the Allegany Territory of the Seneca Nation. The daytime service includes stops at residential and client-based service facilities of the Cattaraugus Rehabilitation Center, Inc.

The Olean-Salamanca-Seneca Allegany Territory (OS) Service operates 13.0 hours per day Monday through Friday and is scheduled to operate 3,302 hours, based on 254 weekday service days. The weekday round trips operate Monday through Friday beginning at 7:15 a.m. and end at 10:36 p.m.

The Olean-Salamanca-Seneca Allegany Territory (OS) Service operates 11.75 hours each Saturday and is scheduled to operate approximately 623 hours, based on 53 Saturday service days. The Saturday service on the Olean-Salamanca-Seneca Allegany Territory (OS) route begins at 9:41 a.m. and concludes at 12:05 a.m..

The total estimate of vehicles hours for the OS service is approximately 3,925 hours.

The estimate of vehicle miles for the Olean-Salamanca-Seneca Allegany Territory (OS) Service bus service during the period of the contract is approximately 84,600 miles. The basis of

estimated scheduled hours and miles is included in Appendix E. Additional miles, estimated up to 10 percent of scheduled miles, may be required to accommodate route deviation service.

For the Olean-Salamanca-Seneca Allegany Territory (OS) Service bus service, the respondent should assume the availability and use of a City of Olean-owned wheelchair-equipped 28-34 passenger bus, equipped with three (3) wheelchair tie-downs.

The hourly rate to provide the OS bus service will include the price of a qualified driver and assume the availability and use of a City-owned wheelchair-equipped 28-34 passenger bus.

Olean, St. Bonaventure University, Allegany Service

Respondents to this Request for Proposals shall provide an hourly rate to provide Olean to St. Bonaventure University to the Village of Allegany Shuttle bus service Mondays, Wednesdays, and Saturdays during the approximate term August 22, 2024 through December 12, 2024 and approximately between January 11, 2025 and May 19, 2025, for an estimated 435 hours of service, 5 hours per day, over approximately 87 service days, except for specified holidays or when St. Bonaventure University is not conducting academic sessions, in accordance with the Schedule of Operations in Appendix E.

This hourly rate will include the price of a qualified driver, as well as an acceptable spare bus, and assume the availability and use of a City of Olean-owned wheelchair-equipped 28 passenger bus, equipped with three wheelchair tie-downs.

Respondents to this Request for Proposals shall provide an hourly rate to provide Olean to St. Bonaventure University to Village of Allegany Shuttle bus service Thursdays and Fridays during the approximate term August 22, 2024 through December 12, 2024 and between January 11, 2025 and May 19, 2025, for an estimated 295 hours of service, 5 hours per day, over approximately 59 service days, except for specified holidays or when St. Bonaventure University is not conducting academic sessions, in accordance with the Schedule of Operations in Appendix E.

This hourly rate will include the price of a qualified driver and Contractor-owned at least 28 passenger bus and an acceptable spare bus. In the event of a request for a wheelchair passenger ride on the Thursday and Friday shuttle bus service, the contractor will be required to provide complimentary paratransit service as described in this RFP document.

Respondents to this Request for Proposals shall provide an hourly rate to provide St. Bonaventure University to Village of Allegany Late Night bus service Thursday, Friday, and Saturday nights, during the approximate term August 22, 2024 through December 12, 2024 and between January 11, 2025 through May 19, 2025, for an estimated 344 hours of service, 4 hours per night, over approximately 86 service nights, except for specified holidays or when St. Bonaventure University is not conducting academic sessions, in accordance with the Schedule of Operations in Appendix E.

St. Bonaventure University may request the contractor to provide two buses for the Late-Night service on certain Friday and Saturday nights during the academic year. In fiscal years ending May 31, 2022, and 2023, the contractor was requested to provide two buses on a total of sixteen (16) Friday and Saturday nights during the Spring academic session. If a second Late Night bus

is requested during the 2024-25 SBU academic year, the hourly rate for the second late night bus will be at the same rate as contractor provided vehicle to provide the scheduled Option F service. No spare bus is required to be available on the occasions that a second late night bus is requested to provide St. Bonaventure Late-Night service.

Respondents to this Request for Proposals will include the hourly rate for a qualified driver, a Contractor-owned 52-60 passenger standard school bus or a Contractor-owned 52-60 passenger public transportation bus, and an acceptable spare bus. In the event of a request for a wheelchair passenger ride on Thursday, Friday or Saturday late-night service, the contractor will be required to provide complimentary paratransit service as described in this RFP document.

The estimated vehicle miles for the St. Bonaventure service during the period of the contract are approximately 11,440 miles.

Respondents to this Request for Proposal will provide hourly prices for City-owned and contractor-owned vehicles to provide the combined total of approximately 1,074 hours for the above St. Bonaventure services.

Total Estimated Service Miles and Hours

In total, the service estimates for the five routes described above shall be used to develop cost data which will be used to evaluate the proposal submitted. The total estimated vehicle miles during the period of the contract is approximately 166,368 miles. The total estimated number of revenue service hours is approximately 11,125.50 hours. The basis of estimated scheduled hours and miles is included in Appendix E. Additional miles, estimated up to 10 percent of scheduled miles, may be required to accommodate route deviation service.

Bid Options:

Respondents to this Request for Proposals shall provide hourly rates to provide Olean City, Downtown Olean Destinations, and Olean-Salamanca-Seneca Allegany (OS) bus services under Options A, B & C as described below. The total price to provide the 10,064 hours of service under Options A, B & C is requested in this Request for Proposal.

Respondents to this Request for Proposals shall provide hourly rates to provide Olean, St. Bonaventure University and Village of Allegany bus services under Options D, E, & F as described below. The total price to provide the described 1,074 hours of service under Options D, E, & F is requested in this Request for Proposal.

Basis of Award

The contract award will be made by the City of Olean after consideration of proposal evaluation factors. The Proposal Evaluation Factors are listed in Appendix E.

The City of Olean reserves the right to award any option at its discretion. In awarding separate options, the City will use the hourly rate to determine the cost of options and the amount of the award. The City will reimburse services provided at the hourly rate for each awarded option submitted in response to this RFP.

Olean City, Downtown Olean Destinations, and Olean-Salamanca-Seneca Allegany Territory Services

Respondents to this Request for Proposals shall provide hourly rates for a qualified driver, including an acceptable spare bus, to provide Olean City, Downtown Olean Destinations, and Olean-Salamanca-Seneca Allegany Territory (OS) bus service during the term June 1, 2024, through May 31, 2025. These bus services will operate Monday through Saturday, except for specified holidays, in accordance with the Schedule of Operations in Appendix E.

Option A - Olean City Service

As described under Appendix E-Hours of Operation, the Olean City Loop bus service includes seven round trips per day, Monday through Saturday, which begins at 7:15 a.m. and ends at 6:33 p.m. On 254 Weekdays, Mondays through Fridays, 10.5 hours of City Loop service will be provided. On 53 Saturdays, 10.25 hours of service will be provided. In total, based on 307 service days, 3,210 hours of City Loop service will be provided. For the Olean City bus service, the respondent should assume the availability and use of a City of Olean-owned wheelchair-equipped 28-34 passenger bus, equipped with three (3) wheelchair tie-downs.

The hourly rate to provide this service shall be included under Option A.

Option A1- Additional Routes or Service

Consistent with Appendix A, Section I., Paragraph O., Respondents to this Request for Proposals are requested to provide an hourly rate for a contractor provided Driver and a wheelchair equipped at least 28 passenger bus, including a spare vehicle. The hourly rate to provide this service shall be included under Option A1.

Option B – Downtown Olean Destinations Circulator Service

As described under Appendix E-Hours of Operation, The Downtown Olean Destinations Circulator Bus Service operates Monday through Saturday on five continuous round trips, which begin at 9:00 a.m. and end at 5:41 p.m. each day. The five round trips include service in from the Olean Municipal Building, located at 101 East State Street, Olean, New York, to Olean General Hospital via Olean Center Mall and Delaware Park Centre Plaza and return to the Olean Municipal Building; from Olean Municipal Building to St. Bonaventure University Campus via Eighth and 15th Streets and Wal-Mart and return to the Olean Municipal Building; from Olean Municipal Building to Martha Avenue Apartments via Greene Street and West Riverside Drive and return to Olean Municipal Building; and from Olean Municipal Building to King Streets and return to Olean Municipal Building. This service operates 8.25 hours per day.

The Downtown Olean Destinations Bus Service operates one round trip, which begins at 6:40 p.m. and ends at 8:01 p.m. on Monday through Saturday. The round trip includes service from the Olean Municipal Building to Olean General Hospital via Olean Center Mall and Delaware Park Centre Plaza and return to the Olean Municipal Building; from Olean Municipal Building to St. Bonaventure University Campus via Eighth and 15th Streets and Wal-Mart and return to the Olean Municipal Building; and from Olean Municipal Building to King Streets and return to Olean Municipal Building. This service operates 1.25 hours per day.

In total, Downtown Olean Destinations Bus Service will operate 9.5 hours per day and is scheduled to operate 2,917 hours, based on 307 service days. For the Olean City bus service, the respondent should assume the availability and use of a City of Olean-owned wheelchair-equipped 28-34 passenger bus.

The estimated vehicle miles during the period of the contract are approximately 31,700 miles. The hourly rate to provide this service shall be included under Option B.

Option B1- Additional Routes or Service

Consistent with Appendix A, Section I., Paragraph O., Respondents to this Request for Proposals are requested to provide an hourly rate for a contractor provided Driver, wheelchair equipped at least 28 passenger bus, including a spare vehicle. The hourly rate to provide this service shall be included under Option B1.

Option C-Olean-Salamanca-Seneca Allegany Territory SNI (OS) Service

As described under Appendix E-Hours of Operation, The Olean-Salamanca-Seneca Allegany Territory (OS) Service includes four round trips per day.

The round trips operate between the City of Olean, the City of Salamanca, and the Allegany Territory of the Seneca Nation. The daytime service includes stops at residential and client-based service facilities of the Cattaraugus Rehabilitation Center, Inc.

The Olean-Salamanca-Seneca Allegany Territory (OS) Service operates 13.0 hours per day Monday through Friday and is scheduled to operate 3,302 hours, based on 254 weekday service days. The weekday round trips operate Monday through Friday beginning at 7:15 a.m. and end at 10:36 p.m.

The Olean-Salamanca-Seneca Allegany Territory (OS) Service operates 11.75 hours each Saturday and is scheduled to operate approximately 623 hours, based on 53 Saturday service days. The Saturday service on the Olean-Salamanca-Seneca Allegany Territory (OS) route begins at 9:41 a.m. and concludes at 12:05 a.m..

The total estimate of vehicles hours for the OS service is approximately 3,925 hours.

The estimate of vehicle miles for the Olean-Salamanca-Seneca Allegany Territory (OS) Service bus service during the period of the contract is approximately 84,600 miles. The basis of estimated scheduled hours and miles is included in Appendix E. Additional miles, estimated up to 10 percent of scheduled miles, may be required to accommodate route deviation service.

For the Olean-Salamanca-Seneca Allegany Territory (OS) Service bus service, the respondent should assume the availability and use of a City of Olean-owned wheelchair-equipped 28-34 passenger bus, equipped with three (3) wheelchair tie-downs.

The hourly rate to provide the OS bus service will include the price of a qualified driver and assume the availability and use of a City-owned wheelchair-equipped 28-34 passenger bus. The hourly rate to provide this service shall be included under Option C.

Option C1- Additional Routes or Service

Consistent with Appendix A, Section I., Paragraph O., Respondents to this Request for Proposals are requested to provide an hourly rate for a contractor provided Driver, wheelchair equipped at

least 28 passenger bus, including a spare vehicle. The hourly rate to provide this service shall be included under Option C1.

Bid Amount – Options A, B, & C

Respondents to this Request for Proposal will provide a total cost to provide the combined total of approximately 10,064 hours for the above-described services, including the price of a qualified driver, the assumed availability and use of City-owned wheelchair-equipped 28-34 passenger buses, respectively, as well as acceptable spare buses.

The price for 10,052 hours will be the bid to provide these services.

Olean, St. Bonaventure University, Allegany Shuttle Service

Option D- Olean, St. Bonaventure, Village of Allegany Service Monday and Wednesday and Saturday

Respondents to this Request for Proposals shall provide an hourly rate for a qualified driver, including an acceptable spare bus, to provide Olean to St. Bonaventure University to the Village of Allegany Shuttle bus service during the approximate term August 22, 2024 through December 12, 2024 and between January 11, 2025 and May 19, 2025, for an estimated 435 hours of service, 5 hours per day, Monday and Wednesday and Saturday, except for specified holidays or when St. Bonaventure University is not conducting academic sessions, in accordance with the Schedule of Operations in Appendix E.

Respondents to this Request for Proposals should assume the availability and use of a City-owned wheelchair-equipped 28-34 passenger bus. The hourly rate to provide this service shall be included under Option D.

Option E- Olean, St. Bonaventure, Village of Allegany Shuttle Service Thursday - Friday

Respondents to this Request for Proposals shall provide an hourly rate for a qualified driver, including an acceptable spare bus, to provide Olean to St. Bonaventure University to Village of Allegany Shuttle bus service during the approximate term August 22, 2024 through December 12, 2024 and between January 11, 2025 and May 19, 2025, for an estimated 295 hours of service, 5 hours per day, Thursday and Friday, except for specified holidays or when St. Bonaventure University is not conducting academic sessions, in accordance with the Schedule in Appendix E.

Respondents to this Request for Proposals will include the hourly rate for a qualified driver, a Contractor-owned at least 28 passenger bus, and an acceptable spare bus. The hourly rate to provide this service shall be included under Option E.

Option F- St. Bonaventure, Village of Allegany Late Night Service Thursday - Saturday

Respondents to this Request for Proposals shall provide an hourly rate for a qualified driver, including an acceptable spare bus, to provide St. Bonaventure University to Village of Allegany Late Night bus service during the approximate term August 22, 2024 through December 12, 2024 and between January 11, 2025 and May 19, 2025, for an estimated 344 hours of service, 4 hours per night, Thursday, Friday, and Saturday nights, except for specified holidays or when St. Bonaventure University is not conducting academic sessions, in accordance with the Schedule of Operations in Appendix E. Respondents to this Request for Proposals will include the hourly rate for a qualified driver, a Contractor-owned 52-60 passenger standard school bus or a Contractor-

owned 52-60 passenger public transportation bus, and an acceptable spare bus. The hourly rate to provide this service shall be included under Option F.

Bid Amount – Options D, E, & F

Respondents to this Request for Proposal will provide a price to provide the combined total of approximately 1,074 hours for the above-described services. The price for 1,074 hours will be the bid to provide these services.

Appendix E Exhibits

BASIS OF ESTIMATED MILES AND HOURS

<u>Revenue Miles</u>	Olean City Service		Downtown Circulator Days	Downtown Circulator Evening	Olean-Seneca/All-Salamanca		Olean-SBU-Allegany Shuttle	SBU - Allegany Late Night Thu-F-Sat	Total Miles/Yr
No Trips	7		5	1	4		10	15	
Estimate Miles/Round Trip	17.87	-	17.8	15.0	68.9	-	8.1	4.9	
Miles/Day	125.1		89	15	275.6		81.5	73.7	
Days/Year	307	-	307	307	307	-	87	59	
Total Miles/Year	38,400		27,323	4,605	84,600		7,090	4,350	166,368
Total Route Miles/Year	38,400		31,928		84,600		11,440		166,368

<u>Revenue Hours</u>	Olean City Service Weekday	Olean City Service Saturday	Downtown Circulator Daytime	Downtown Circulator Evening	Olean-Seneca/Allegany-Salamanca Weekday (M-F)	Olean-Seneca/Allegany-Salamanca Saturday	Olean-SBU-Allegany Shuttle M-W-Sat	Olean-SBU-Allegany Shuttle Thu-F	SBU - Allegany Late Night Thu-F-Sat	Total Hours/Yr
Hours/Day	10.50	10.25	8.25	1.25	13	11.75	5	5	4	
Days/Year	254	53	307	307	254	53	87	59	86	
Hours/Year	2,667	543	2,533	384	3,302	623	435	295	344	11,125.5
Total Route Hours/Year	3,210		2,917		3,925		1,074			11,125.5

The following schedule brochures describe the current services:

1. OATS City Service Route Map and Schedule Brochure
2. OATS Downtown Olean Destination Route Map and Schedule Brochure
3. OATS Olean-Salamanca-Seneca Allegany Territory Route Map, and Schedule Brochure
4. OATS Olean, St. Bonaventure, Village of Allegany Bus Schedules, Route Maps, and Schedule Brochures

The maps and brochure may be found online at www.cityofolean.org.

<https://cityofolean.org/olean-area-transit-system/>

Bid Pricing Form January 2024
Revised November 2023

Option A-Olean City Service

Bid price Per Hour per Day for the described service with the contractor providing the Driver, along with a spare vehicle. The 28-34 passenger bus will be provided by the City of Olean. Price and proposal based on 3,210 hours of service:

Hourly rate: \$ Total: 3,210 hours, \$

Option A1- Additional Routes or Service

Consistent with Appendix A, Section I., Paragraph N., please provide an hourly rate for a contractor provided Driver and a wheelchair equipped at least 28-passenger bus, including a spare vehicle.

Hourly rate: \$

Option B-Downtown Olean Destinations Service

Bid price Per Hour per Day for the described service with the contractor providing the Driver, along with a spare vehicle. The 28- 34 passenger bus will be provided by the City of Olean. Price and proposal based on 2,917 hours of service:

Hourly rate: \$ Total: 2,917 hours, \$

Option B1- Additional Routes or Service

Consistent with Appendix A, Section I., Paragraph N., please provide an hourly rate for a contractor provided Driver, and a wheelchair equipped at least 28-passenger bus, including a spare vehicle.

Hourly rate: \$

Option C-Olean-Salamanca-Seneca Allegany Territory SNI (OS) Service

Bid price Per Hour per Day for the described service with the contractor providing the Driver, along with a spare vehicle. The 28-34 passenger bus will be provided by the City of Olean. Price and proposal based on 3,924 hours of service:

Hourly rate: \$ Total: 3,925 hours, \$

Option C1- Additional Routes or Service

Consistent with Appendix A, Section I., Paragraph N., please provide an hourly rate for a contractor provided Driver, and a wheelchair equipped 28-passenger bus, including a spare vehicle.

Hourly rate: \$

Combined Bid price for Olean City, Downtown Olean Destinations, and COOS Service, Options A, B & C, based on total 10,052 hours: \$

Olean, St. Bonaventure, Village of Allegany Services

Option D – Olean, St. Bonaventure, Village of Allegany Shuttle Service Monday-Wednesday-Saturday

Bid price Per Hour per Day for the described service with the contractor providing the Driver, along with a spare vehicle. The 28-34 passenger bus, equipped with wheelchair tie-downs, will be provided by the City of Olean. Price and proposal based on 435 hours of service:

Hourly rate: \$ Total: 435 hours, \$

Option D1 – Olean, St. Bonaventure, Village of Allegany Shuttle Service Monday-Wednesday-Saturday

Bid price Per Hour per Day for the described service with the contractor providing the Driver and a at least 28-passenger bus along with a spare vehicle.

Hourly rate: \$

Option E – Olean, St. Bonaventure, Village of Allegany Shuttle Service Thursday-Friday

Bid price Per Hour per Day for the described service with the contractor providing the Driver and a 28-passenger bus along with a spare vehicle. Price and proposal based on 295 hours of service:

Hourly rate: \$ Total: 295 hours, \$

Option F –St. Bonaventure, Village of Allegany Late Night Service Thursday-Saturday

Bid price Per Hour per Day for the described service with the contractor providing the Driver and a 52-60 passenger bus along with a spare vehicle. If a 52-60 passenger standard school bus style bus is proposed for this service, the bus must have a painted white body. Price and proposal based on 344 hours of service:

Hourly rate: \$ Total: 344 hours, \$

Combined Bid price for Olean, St. Bonaventure, and Allegany Service, Options D, E & F, based on total 1,074 hours: \$

Combined Bid price based on total 11,125 hours, Options A-F: \$

Proposal Evaluation Factors

Proposal Evaluation Factors are listed in order of importance and assigned factor weights. Respondents are requested to provide information in response to this RFP that will demonstrate the firm's capabilities and responsiveness to the listed factors, by which, proposals will be evaluated. The information submitted shall be limited to 20 pages. Resumes, transition schedules, tabs and brochures, a completed bid pricing form, and any other document considered by the respondent to contribute to the evaluation of the firm's capability to perform the requested scope of work will be considered part of the 20-page limit. A cover letter, certificates of insurance, documentation of compliance with FTA Drug and Alcohol requirements, etc. will not be considered part of the 20-page limit.

The contract award will be made by the City of Olean after consideration of proposal evaluation factors.

<u>Proposal Submitted</u> By: _____	-
<u>Proposal Evaluation Factors</u>	<u>Factor Weight</u>
Proven fixed route and route deviation service management and operational capabilities, management strategies, and operational experience in a transit environment similar to the City of Olean and its environs in the Cattaraugus County area	20
Qualifications of staff proposed, including experience and record of accomplishments of Project manager and other personnel proposed to service Agreement	20
Cost of providing services pursuant to Agreement	15
Financial stability and capabilities of CONTRACTOR	15
Availability of contractor owned buses needed to supplement City of Olean owned buses to provide scheduled service and unscheduled service needs due to maintenance and warranty repair of City buses. The age and condition of contractor owned buses will be evaluated. This evaluation factor will include an assessment of the painted body color of any 52-60 passenger standard school bus style vehicle proposed to provide services under this contract.	10
Proven maintenance record and facilities to maintain and store vehicles owned and provided by the City of Olean. The maintenance facility is not required to be located in Cattaraugus County. The location of the maintenance facility and the potential impact on timely maintenance of transit vehicles will be considered.	10
Creative ideas proposed to maximize safe and efficient fixed route and route deviation service operations, such as driver productivity incentives, safety incentives, employee profit sharing, optional training programs and monthly and yearly driver awards	5
CONTRACTOR's plans to affect a smooth transition from current operations	5
Total Score	100

Appendix F- Rolling Stock Inventory October 2023														
Agency Vehicle Number	Year of Mfg.	Make	Model	VIN	Current Odometer	Vehicle Type	Vehicle Length (in feet)	Seating Capacity	W/C	Bike Rack	Fuel Type	Condition	Vehicle Status	Ownership Code
W3735	2018	Matthews	Champion	4UZADRFC1JCJW3735	169,846	BU	29	28	3	1	diesel	3-Adequate	Active Route Deviation	Owned by Olean
D8809	2020	Matthews	Champion	4UZADRFC1LCMD8809	121,645	BU	29	28	3	1	diesel	2-Good	Active Route Deviation	Owned by Olean
P8437	2022	Star Trans	PS2	4UZADSFC1NCNP8437	62,469	BU	37	34	3	1	diesel	1-Excellent	Active Route Deviation	Owned by Olean
P8438	2022	Star Trans	PS2	4UZADSFC3NCNP8438	62,553	BU	37	34	3	1	diesel	1-Excellent	Active Route Deviation	Owned by Olean
P8439	2022	Star Trans	PS2	4UZADSFC5NCNP8439	18,787	BU	37	34	3	1	diesel	1-Excellent	Active Route Deviation	Owned by Olean

BID PROPOSAL FORM

I _____ as a duly authorized representative
(Name)

of _____ do hereby agree to provide transportation
(Company)

services to City of Olean for the above-mentioned rates in complete compliance with Federal, New York State, City of Olean, and any local laws and the terms specified in the attached RFP document.

Proposer _____ Telephone: _____

Signature _____

Name printed _____

Title _____

Date _____

Appendix G

"Olean Provider Agreement"

for

Federal, State, and Municipal Operating Assistance

THIS AGREEMENT made this _____ day of _____ by and between _____

_____ (herein after referred to as

"Municipal Corporation") AND

_____ (herein after referred to as
"Carrier")

W I T N E S S E T H

WHEREAS, Section 5311, Title 49, United States Code, provides for the payment of Federal financial assistance for public transportation in rural and small urban areas through a formula grant program administered by the states; and

WHEREAS, this Non-Urbanized Area Public Transportation Program is administered by the Department of Transportation of the State of New York; and

WHEREAS, the Municipal Corporation is a grantee under said Program pursuant to an approved project application and a written agreement with said Department; and

WHEREAS, the Carrier will provide certain public mass transportation services as part of this Program; and

WHEREAS, this contract is subject to the provisions of Section 119-r of the General Municipal Law of the State of New York; and

WHEREAS, pursuant to section 119-r of said Municipal Law, the Municipality is authorized to make a contract for a fair and reasonable consideration for mass transportation services to be rendered to the public by a privately-owned or operated mass transportation facility; and

WHEREAS, such power shall include but not be limited to the power to appropriate funds for payment of such consideration; and

WHEREAS, funding for the public mass transportation services provided under this contract will include but may not be limited to the aforementioned federal Section 5311 available through the formula grant program administered by the State of New York and New York State funding made available by the Statewide Transit Operating Assistance (STOA) Program and local dollars; and

WHEREAS, the Carrier agrees to comply with all Statewide Transit Operating Assistance (STOA) Program rules and regulations;

NOW, THEREFORE, in consideration of the mutual promises herein set forth, the Municipal Corporation and the Carrier agree as follows:

1. Definitions. As used in this Agreement:

"Municipal Organization" means the City of Olean.

"State" means the State of New York.

"Project" means the provision of certain public mass transportation services specified in the Municipal Corporation's approved Project Application and summarized in Appendix C.

"Project Application" means the federal Section 5311 operating assistance project application submitted by the Municipal Corporation to, and as approved by the Commissioner for the Project described in Appendix C of this Agreement, including all project supporting information submitted therewith;

"STOA" means New York State funding available through the State Transit Operating Assistance (STOA) program;

"local funding" means the City of Olean's local funding which is made available from local resources .

"Commissioner" means the Commissioner of Transportation of the State of New York or the Commissioner's duly authorized representative.

2. Purpose of Agreement. The purpose of this Agreement is to provide for the rendition of certain public transportation services by the Carrier and for the payment by the Municipal Corporation to the Carrier of certain reimbursable operating expenses of the Carrier associated with the rendition of such services.
3. Documents Comprising Agreement. This Agreement consists of this document and the following attachments:

PART A --	Federally Required Clauses
PART B--	Standard Provisions for New York State Contracts
PART C --	Project Description, Term, Funding and Payment Procedures

This Agreement also consists of the following documents, which are incorporated by reference:

- (a) Municipal Corporation's Project Application
- (b) Agreement between Municipal Corporation and the State
- (c) The Olean Area Transit System (OATS) request for proposal document, in its entirety including any amendments and responses to requests for clarifications.

The Carrier agrees to comply with all applicable terms and conditions contained in the aforementioned documents, including all applicable rules, regulations and project supporting information of Section 5311, Title 49, United States Code.

4. Payment to the Carrier. The Municipal Corporation agrees to pay to the Carrier the Federal Share specified in Appendix C of this Agreement for the Carrier's reimbursable Operating Expenses incurred in carrying out the Project, subject to any limitations applicable to such payments contained in the attachments hereto, or to laws, rules and regulations applicable thereto.
5. Records and Documentation.

The Carrier shall establish and maintain, in accordance with requirements established by the Municipal Corporation, separate account(s) for the Project, either independently or within its existing accounting system, to be known as the Project Account.

All costs charged to the Project Account shall be supported by properly executed payrolls, time records, invoices, contracts, receipts, vouchers or other acceptable documentary evidence of the nature and propriety of the charges.

Any check or order drawn by the Carrier with respect to any item which is or will be chargeable against the Project Account will be drawn only in accordance with a properly signed voucher then on file in the office of the Carrier stating in proper detail the purpose for which such check or order is drawn. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the Project shall be clearly identified, readily accessible, and to the extent feasible, kept separate and apart from all other such documents.

With respect to the public mass transportation services specified in Appendix C, the Carrier shall submit reports to the Municipal Corporation in a manner and form consistent with the reporting requirements stated in the Municipal Corporation's Agreement with the State for the Project for each year for which federal assistance is to be paid hereunder.

The Carrier shall also retain all data, reports, records, logs, trip tickets, and other materials and information relating to activities covered by this Agreement for a period of three (3) years following the date upon which final payment is made to the Carrier under this Agreement, and shall make the same available to the Commissioner, the State Comptroller, the United States Secretary of Transportation and the Comptroller General of the United States, or their authorized representatives, for audit, inspection and copying, upon request.

Approval by Commissioner. This Agreement shall not be effective unless approved in writing by the Commissioner.

Termination or Suspension. If the Carrier, before completion, discontinues the Project or project services, or if, for any reason, the commencement, prosecution or timely completion of the Project by the Carrier is rendered improbable, impossible or illegal, the Municipal Corporation, by written notice to the Carrier, may terminate any or all of the Municipal Corporation's obligations under this Agreement or may suspend any or all of its obligations under this Agreement until the event or condition resulting in such suspension has ceased or been corrected.

Upon receipt of any such notice of termination or suspension, the Carrier shall promptly carry out the actions required by such notice which may include any or all of the following: (1) termination or suspension of Project activities and such other action as the Municipal Corporation deems necessary in order to minimize the cost basis for reimbursement; (2) furnishing a status report of the Project activities and the Project Account and a proposed schedule, plan and budget for terminating or suspending the Project; and (3) furnishing an estimate of costs.

If the Carrier fails to furnish, within a reasonable time, a schedule, plan and budget for the termination or suspension of the Project, the termination or suspension shall be carried out in accordance with such terms and conditions as the Municipal Corporation may impose.

Annual Report and Audit. Upon completion of the Project, the Carrier shall complete and furnish to the Municipal Corporation such operating, service and financial data as may be requested by the Municipal Corporation in order to fulfill the annual reporting and other certification reporting requirements of the State or the federal Single Audit Act of 1984. Receipt of such data is a condition of the Carrier receiving the final payment for the project.

MUNICIPAL CORPORATION:

CARRIER:

BY _____ BY _____

TITLE _____ TITLE _____

DATE _____ DATE _____

Part A

U.S. GOVERNMENT (FTA) REQUIRED CLAUSES

For any conditions imposed upon a “contractor” or “subcontractor”, it shall be the recipient’s responsibility to notify and impose applicable requirements upon any such contractor or subcontractor. Notwithstanding the foregoing, other requirements applicable to the recipient or subrecipient may also apply to a contractor or subcontractor, or any other third party, for which the recipient or subrecipient shall also be responsible for imposing any such condition.

Any use of “recipient” or “subrecipient” shall mean the grant recipient of the associated agreement to which this appendix is incorporated and applies. Such terms are interchangeable and may be used contemporaneously. A recipient or subrecipient shall impose any requirements of this appendix, or associated agreement, to any sub-awardee.

Any use of “Sub-agreement” or “Sub-grant” shall mean an agreement through which the Recipient awards federal assistance to a Sub-grantee(s) to support or stimulate any of the Recipient’s or Sub-grantee(s) Projects or related activities supported under the Award, the accompanying Underlying Agreement, or Amendments thereto, but does not include a third-party contract, third-party subcontract, or lease.

Any use of “Sub-awardee” shall mean any entity or person that receives federal assistance from the FTA through an associated agreement, but is not a direct recipient of funds from, or a direct party to this agreement with, the State. Sub-awardee shall not include a Third-Party Contractor, Third Party Subcontractor, or Lessee.

Any use of “Third Party”, “Third-Party Participant”, or variations thereof, shall mean a grant recipient, sub-awardee – and contractor(s), subcontractor(s), or suppliers, thereof – whose work under the associated agreement is supported with FTA funding, eligible non-federal share dedicated to the Project, or is dedicated as an in-kind contribution eligible for as a non-federal share. Such terms are interchangeable and may be used contemporaneously.

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. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

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 \$150,000)

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 software, microcomputer equipment and small purchases (currently less than \$150,000) 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 for FY2016 and FY2017, a minimum 65% domestic content for FY2018 and FY2019 and a minimum 70% domestic content for FY2020 and beyond. A bidder or offeror shall submit appropriate Buy America certification to the recipient 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.

Build America, Buy America Act – Applicability – all

Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and FTA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

Charter Bus Requirements – Applicability – Operational Service Contracts. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor shall comply with 49 USC 5323(d) and (g) and 49 CFR 604, which state that recipients and subrecipients of FTA assistance may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, “Charter Service,” 49 CFR part 604, the terms and conditions of which are incorporated herein by reference. If a Recipient or any Third-Party Participant has operated a chart bus in violation of federal laws and regulations, FTA may: (1) Require the Recipient or Third-Party Participant to take such remedial measures as FTA considers appropriate, or (2) Bar the Recipient or Third-Party Participant from receiving Federal transit funds.

School Bus Requirements – School Bus Requirements – Applicability – Operational Service Contracts. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Pursuant to 69 USC 5323(f) or (g) as amended by MAP-21, 23 USC 133, 23 USC 142, and 49 CFR 605, recipients and subrecipients of FTA assistance shall not engage in school bus operationsexclusively 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. Violations. If a Recipient or any Third-Party Participant that has operated school bus service in violation of FTA's School Bus laws and regulations, FTA may: (1) Require the Recipient or Third-Party Participant to take such remedial measures as FTA considers appropriate, or (2) Bar the Recipient or Third-Party Participant from receiving Federal transit funds.

Cargo Preference - Use of US-Flag Vessels – Applicability – Contracts involving equipment, materials or commodities which may be transported by ocean vessels. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Recipient 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 recipient (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. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

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 except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

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 \$250,000. 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 recipient and understands and agrees that the recipient 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 \$250,000 financed in whole or in part with FTA assistance.

Safe Operation of Motor Vehicles – Applicability – All

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

Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company- rented vehicles, or personally operated vehicles.

- b. **Distracted Driving, Including Text Messaging While Driving.** The Recipient agrees to comply with:

- (1) **Safety.** The Recipient agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Recipient owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Award, or when performing any work for or on behalf of the Award,
- (2) **Recipient Size.** The Recipient agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving, and
- (3) **Extension of Provision.** The Recipient is encouraged to include the immediately preceding Provision of section (1) – (2) in each third party sub-agreement (if applicable) at each tier supported with federal 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 recipient prior to the recipient'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 recipient prior to the recipient'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:
 - A. Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and
 - B. 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.
 - C. Solicitation Specification Requirements: Contractor shall submit evidence that it will be capable of meeting the bid specifications.
 - D. 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.

Lobbying – Applicability - Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$250,000

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$250,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier, up to the recipient.

Trafficking in Persons Legal Authorities. The Recipient and subrecipient agrees to comply with federal requirements and guidance, including:

- (a) Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended, 22 U.S.C. § 7104(g), and
- (b) The terms of this section, which have been derived from U.S. OMB regulatory guidance, "Award Term for Trafficking in Persons," 2 C.F.R. part 175, per

U.S. OMB's direction.

(2) Definitions. The Recipient agrees that for purposes of this section:

- (a) Employee means either an individual who is employed by the Recipient or a Subrecipient, and is participating in a Project or related activities as set forth in the Underlying Agreement, or another person who is participating in a Project or related activities as set forth in the Underlying Agreement and is not compensated by the Recipient, including, but not limited to, a volunteer, or an individual whose services are contributed by the Recipient or Third Party Participant as an in-kind contribution toward the cost sharing requirements of the Recipient's Underlying Agreement.
- (b) Forced labor means labor obtained by recruitment, harboring, transportation, provision, or other means of obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- (c) Private entity means any entity other than a state, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. § 175.25, and includes a for-profit organization, or a nonprofit organization, including any nonprofit organization of higher education, hospital, or tribal organization other than one included in the definition of Indian Tribe at 2 C.F.R. § 175.25(b).
- (d) Severe forms of trafficking in persons has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.
- (e) Commercial sex act has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.
- (f) Coercion has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.
- (g) Recipient or Direct Recipient means a non-federal entity that receives an award directly from the State of New York to carry out an activity under a federal program. The term "Recipient" does not include a Subrecipient.
- (h) Subrecipient or Sub-grantee means any entity or person that receives federal assistance provided by the State instead of from the State directly, but does not include a Third-Party Contractor, Third Party Subcontractor, or Lessee.
- (i) Sub-agreement or Sub-grant means an agreement through which the Recipient awards federal assistance to its Subrecipient(s) to support or stimulate any of the Recipient's or Subrecipient's Projects or related activities supported under the Award, the accompanying Underlying Agreement, or Amendments thereto, but does not include a third-party contract, third party subcontract, or lease.
- (j) "This Section" any references to "this section" shall mean and refer to the section titled, "**Trafficking in Persons**".

(3) Provisions Applicable to All Recipients. The Recipient agrees to and assures that it, and any Subrecipients, will:

- (a) Provide Information. Inform FTA immediately of any information it receives from any source alleging a violation of the prohibitions listed in this section, and
- (b) Sub-agreement Provision. Certify and include the following provision in any sub-agreement it enters with a private entity as defined above in section (2)(c) of this section:

Recipient, or sub recipient, agrees that it and its employees that participate in the Recipient's Award, may not:

- 1. Engage in severe forms of trafficking in persons during the period that the Recipient's Award is in effect,*
- 2. Procure a commercial sex act during the period that the Recipient's Award is in effect, or*
- 3. Use forced labor in the performance of the Recipient's Award or sub-agreements thereunder.*

- (4) Provisions Applicable to a Private Entity Recipient. If the Recipient is a private entity, it agrees that:

- (a) Prohibitions. It, its employees, its Subrecipients, and its Subrecipients' employees that participate in the Underlying Agreement will not:
 - 1 Engage in severe forms of trafficking in persons during the period that the Recipient's or Subrecipient's Underlying Agreement is in effect,
 - 2 Procure a commercial sex act during the period that the Recipient's or Subrecipient's Underlying Agreement is in effect, or
 - 3 Use forced labor in the performance of the Recipient's or Subrecipient's Underlying Agreement or sub-agreements.

- (b) Termination of Federal Assistance. Section 106(g) of the TVPA, as amended, 22 U.S.C. § 7104(g), and U.S. OMB regulatory guidance, "Award Term for Trafficking in Persons," 2 C.F.R. part 175, provide FTA and the State of New York, through receipt of federal funds, the right to unilaterally terminate the Underlying Agreement for a violation of that Act without penalty to the Federal Government or the State of New York, if FTA or the State of New York determines that the private entity Recipient or its Subrecipient:

- 1 Has violated a prohibition described above in section (4)(a) of this Section, or
- 2 Has an employee whose conduct is determined to have violated a prohibition described above in section (4)(a) of this Section because that employee's conduct is either:
 - a Associated with the performance of the Recipient's Underlying Agreement, or
 - b Imputed to the Recipient or Subrecipient using the standards of due process for conduct of an individual to an organization provided in:
 - (i) U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, or
 - (ii) U.S. OMB regulatory guidance, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180.

- (5) Provisions Applicable to a Recipient That is Not a Private Entity. A Recipient that is not a private entity agrees that section 106(g) of the TVPA, as amended, 22 U.S.C.

§7104(g), and U.S. OMB regulatory guidance, "Award Term for Trafficking in Persons," 2 C.F.R. part 175, provides FTA, and consequently the State, the right to unilaterally terminate the Underlying Agreement, without penalty to the Federal Government or the State of New York, for a violation of that Act if FTA, or the State of New York, determines that:

- (a) A private entity that is the Recipient or Subrecipient is determined to have engaged in severe forms of trafficking in persons during the period that the Recipient's or Subrecipient's Underlying Agreement is in effect; procured a commercial sex act during the period that the Recipient's or Subrecipient's Underlying Agreement is in effect; or used forced labor in the performance of the Recipient's or Subrecipient's Underlying Agreement or sub-agreements thereunder; or
- (b) An employee of a private entity that is the Recipient or Subrecipient has engaged in severe forms of trafficking in persons during the period of time that the Recipient's or Subrecipient's Underlying Agreement is in effect; procured a commercial sex act during the period of time that the Recipient's or Subrecipient's Underlying Agreement is in effect; or used forced labor in the performance of the Recipient's or Subrecipient's Underlying Agreement or sub-agreements thereunder, and whose conduct described above is associated with the performance of the Recipient's or Subrecipient's Underlying Agreement; or is imputed to the Subrecipient using the standards for due process to impute the conduct of an individual to an organization as provided in U.S. OMB regulatory guidance, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, and U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200.

- (6) Remedies Other Than Termination of Federal Assistance. The Recipient or Subrecipient agrees that FTA's right to terminate federal assistance as provided in the TVPA and in sections (4)(b) and (5) are in addition to all other remedies for noncompliance available to the State and Federal Government under the associated grant agreement.

Access to Records and Reports– Applicability – As shown below. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)
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 sub-grantee 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 anybooks, 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. Where the purchaser is a State and is an FTA recipient or a sub-grantee 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 \$250,000.

2. 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 sub-grantee 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.

3. Where a purchaser which is an recipient, subrecipient, or a sub-grantee of an FTA recipient, and 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.

4. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

5. 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 recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto, as provided by 49 CFR 18.39(i)(11).

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

Federal Changes – Applicability – All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000) 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 recipient and FTA, as they may be amended or promulgated from time to time during the term of the contract, to the extent that such are publicly available. 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 \$250,000, FTA may accept the bonding policy and requirements of the recipient, provided 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 of 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. Substantial progress payments are made before delivery of end items starts.
3. 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).

City of Olean addition to this section: Respondents are not required to submit a bid bond with this procurement. Performance bond and payment bonds are not required pursuant to Appendix B-Federally Required Clauses, Bonding Requirements of the Request for Proposal.

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 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 \$150,000.

- 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 recipient and understands and agrees that the recipient 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 **\$150,000 financed in whole or in part with FTA assistance.**

Recycled Products – Applicability – All contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the current or previous fiscal year using Federal funds.

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 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) Responsibilities

(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 (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.

- (iv) 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.
- (v) 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.
- (vi) (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 (1)(v)(B) or (1)(v)(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 recipient 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 29CFR 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 recipient 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.

(ii)(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.
- (ii)(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 (3)(ii)(B) of this section.
- (ii)(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 (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 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 \$250,000

(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 paragraph (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 paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages - the recipient 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 paragraph (2) of this section.

(4) Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section, and 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.

Awards Involving Commerce. The Recipient agrees to comply, and assures that each Third-Party Participants will comply, with the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 et seq. to the extent that the FLSA applies to employees performing work with federal assistance provided through the Underlying Agreement involving commerce, or as the Federal Government otherwise determines applicable.

No Government Obligation to Third Parties - Applicability – All contracts except micro- purchases (\$10,000 or less, except for construction contracts over \$2,000)

(1) The recipient 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 recipient, 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 except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

(1) Civil Fraud. The Recipient acknowledges and agrees that:

- (i) Federal laws, regulations, and requirements apply to itself and its Underlying Agreement, including the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801, et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31.
- (ii) By executing the Underlying Agreement, the Recipient certifies and affirms to the Federal Government the truthfulness and accuracy of any claim, statement, submission, certification, assurance, affirmation, or representation that the Recipient provides to the Federal Government.
- (iii) The Federal Government may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Recipient presents, submits, or makes available any false, fictitious, or fraudulent information.

(2) Criminal Fraud. The Recipient acknowledges that 49 U.S.C. § 5323(l)(1) authorizes the Federal Government to impose the penalties under 18 U.S.C. § 1001 if the Recipient provides a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation in connection with a federal public transportation program under 49 U.S.C. chapter 53 or any other applicable federal law.

(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 and institutions of higher learning, where the threshold is \$250,000

a. Termination for Convenience (General Provision) the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient'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 recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient 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 recipient may terminate this contract for default. Termination shall be effectuated 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 recipient 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 recipient, 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 recipient 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 recipient'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 recipient setting forth the nature of said breach or default, the recipient 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 recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach If the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient 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 recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient 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 recipient may terminate this contract for default. The recipient 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 recipient'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 recipient may terminate this contract for default. The recipient 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 recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient 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 recipient'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 recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. In this event, the recipient 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 recipient 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 recipient 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 recipient, 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 recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient'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 recipient's convenience.

i. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient 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 recipient 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 recipient'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 recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient.

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 recipient's convenience.

j. Termination for Convenience or Default (Cost-Type Contracts) the recipient 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 recipient 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 recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient 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 recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient'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 recipient 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 recipient, 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) – Applicability – Contracts over \$25,000

The Recipient/subrecipient agrees to the following:

(1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following:

(a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third-Party Participant that is debarred or suspended except as authorized by:

(i) U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200,

(ii) U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and

(iii) Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C.

§ 6101 note,

(b) It will review the U.S. GSA "System for Award Management," <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200, and

(c) It will include, and require each of its Third-Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:

(i) Will comply with Federal debarment and suspension requirements, and

(ii) Reviews the "System for Award Management" at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and

(iii) If the Recipient suspends, debars, or takes any similar action against a Third-Party Participant or individual, the Recipient will provide immediate written notice to the:

(a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project,

(b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or

(c) FTA Chief Counsel,

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 except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

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 Requirements – All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The following requirements apply to the underlying contract:

The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service:

a. **Nondiscrimination in Federal Public Transportation Programs**. The Recipient agrees to, and assures that each Third-Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA's "Nondiscrimination" statute):

(1) FTA's "Nondiscrimination" statute prohibiting discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin,

- (e) Sex, (f) Disability, (g) Age, or (h) Gender identity and
- (2) The FTA “Nondiscrimination” statute’s prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity,
- (3) Except as FTA determines otherwise in writing:
 - (a) General. Follow:
 - (i) The most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable Federal laws, regulations, and guidance, and
 - (ii) Other applicable Federal guidance that may be issued, but
 - (b) for the exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program;
- b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third-Party Participant will:
 - (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin,
 - (2) Comply with:
 - (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq.,
 - (b) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 C.F.R. part 21, and
 - (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and
 - (3) Except as FTA determines otherwise in writing, follow:
 - (a) The most recent edition of FTA Circular 4702.1, “Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable Federal laws, regulations, and guidance.
 - (b) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 C.F.R. § 50.3, and
 - (c) Other applicable Federal guidance that may be issued;
- c. Equal Employment Opportunity.
 - (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third-Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and:
 - (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., Facilitate compliance with Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order No. 11246, Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note,
 - (b) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and
 - (c) Comply with FTA Circular 4704.1 other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing.
 - (2) General. The Recipient agrees to:
 - (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: (1) Race, (2) Color, (3) Religion, (4) Sex, (5) Disability, (6) Age, or (7) National origin,
 - (b) Take affirmative action that includes, but is not limited to: (1) Recruitment advertising, (2) Recruitment, (3) Employment, (4) Rates of pay, (5) Other forms of compensation, (6) Selection for training, including apprenticeship, (7) Upgrading, (8) Transfers, (9) Demotions, (10) Layoffs, and (11) Terminations, with the exception of Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of “Employer”.
 - (3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking “construction” as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third-Party Participant, with:
 - (a) U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. chapter 60, and
 - (b) Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order No. 11246, Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note,
- d. Disadvantaged Business Enterprise.
 - (1) To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third-Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as “Disadvantaged Business Enterprises” (DBEs), in the Project, and Recipient agrees to comply with:
 - (a) Section 1101(b) of Map-21, 23 U.S.C. § 101 note,
 - (b) U.S. DOT regulations, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 C.F.R. part 26, and
 - (2) Federal transit law, specifically 49 U.S.C. § 5332, Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26,

- (3) Assurance. As required by 49 C.F.R. § 26.13(a),
- (4) The Recipient provides assurance that:
 - (a) The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26.
 - (b) The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts.
 - (c) Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement.
 - (d) Upon notification to the Recipient of its failure to abide by DBE requirements, the Federal Government may impose sanctions as provided for in 49 C.F.R. part 26, as implemented by the State through this agreement, and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.,
- (5) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under Map-21 and previous legislation.

e. Nondiscrimination on the Basis of Sex

The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

f. Nondiscrimination on the Basis of Age

The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including:

- (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age,
- (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, which implements the ADEA,
- (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds,
- (4) U.S. Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

g. Nondiscrimination on the Basis of Disability

The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities:

- (1) Federal laws, including:
 - (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities,
 - (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of “employer,”
 - (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities,
 - (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and
 - (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities,
- (2) Federal regulations, including:
 - (a) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. part 37,
 - (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. part 27,
 - (c) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 C.F.R. part 39,
 - (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. part 1192 and 49 C.F.R. part 38,
 - (e) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. part 35,
 - (f) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. part 36,
 - (g) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. part 1630,
 - (h) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer

Premises Equipment for Persons with Disabilities,” 47

C.F.R. part 64, Subpart F,

(i) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. part 1194, and
(j) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. part 609, and

h. Other applicable Federal civil rights and nondiscrimination guidance, Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of:

(1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq.,

(2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and

(3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2,

i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following:

(1) Executive Order No. 13166, “Improving Access to Services for Persons with Limited English Proficiency,” August 11, 2000, 42 U.S.C. § 2000d-1 note, and

(2) U.S. DOT Notice, “DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficiency (LEP) Persons,” 70 Fed. Reg. 74087, December 14, 2005,

j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to:

(1) Comply with other applicable Federal nondiscrimination laws and regulations, and

(2) Follow Federal guidance prohibiting discrimination.

k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

Breaches and Dispute Resolution – Applicability – All contracts over \$250,000

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient’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 recipient’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 recipient’s CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729.

Performance During Dispute - Unless otherwise directed by the recipient, 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 recipient 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 the residing 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 recipient 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 –

Contracts involving experimental, developmental, or research work (\$10,000 or less, except for construction contracts over \$2,000).

Patent Rights

A. General. The Recipient agrees that:

(1) Depending on the nature of the Project, the Federal Government may acquire patent rights when the Recipient or Third-Party Participant produces a patented or patentable: (a) Invention, (b) Improvement, or (c) Discovery,

(2) The Federal Government’s rights arise when the patent or patentable information is: (a)

Conceived under the Project, or (b) Reduced to practice under the Project, and

(3) When a patent is issued or patented information becomes available as described in Patent Rights Section A(2), the Recipient agrees to: (a) Notify FTA immediately, and (b) Provide a detailed report satisfactory to FTA,

B. Federal Rights.

The Recipient agrees that:

(1) Its rights and responsibilities, and the rights and responsibilities of each Third-Party Participant, in that federally funded invention, improvement, or discovery will be determined as provided by applicable Federal laws, regulations, and guidance, including any waiver thereof, and

(2) Unless the Federal Government determines otherwise in writing – irrespective of the Recipient’s status or the status of any Third-Party Participant as a large business, a small business, a State government, a State instrumentality, a local government, an Indian tribe, a nonprofit organization, an institution of higher education, or an individual – the Recipient agrees to transmit the Federal Government’s patent rights to FTA as specified in:

(a) 35 U.S.C. § 200 et seq., and

(b) 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, and

C. License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19:

- (1) License fees and royalties for patents, patent applications, and inventions derived from the Project are program income, and
- (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except:
 - (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and
 - (b) As FTA determines otherwise in writing.

Rights in Data and Copyrights

A. Definition of “Subject Data” means recorded information, subject to (1) Copyright, whether or not copyrighted, and (2) Delivery, that which is delivered or specified to be delivered under the Underlying Agreement.

B. Examples of “Subject Data.” Examples of “subject data” include, but are not limited to:

- (a) Computer software, (b) Standards, (c) Specifications, (d) Engineering drawings and associated lists, (e) Process sheets, (f) Manuals, (g) Technical reports, (h) Catalog item identifications, and (i) Related information, but do not include: (1) Financial reports,
- (2) Cost analyses, or (3) Other similar information used for Project administration,

C. General Federal Restrictions. The following restrictions apply to all subject data first produced in the performance of the Recipient’s Project supported by the Underlying Agreement:

- (1) Prohibitions. The Recipient may not:
 - (a) Publish or reproduce any subject data in whole or in part, or in any manner or form, or
 - (b) Permit others to do so, but
- (2) Exceptions. The prohibitions of Rights in Data and Copyrights C(1) do not apply to:
 - (a) Publications or reproductions for the Recipient’s own internal use,
 - (b) An institution of higher learning,
 - (c) The portion of subject data that the Federal Government has previously released or approved for release to the public, or
 - (d) The portion of data that has the Federal Government’s prior written consent for release,

D. Federal Rights in Data and Copyrights. The Recipient agrees that:

- (1) License Rights. The Recipient must provide a license to its “subject data” to the Federal Government, which license is: (a) Royalty-free, (b) Non-exclusive, and (c) Irrevocable,
- (2) Uses. The Federal Government’s license must permit the Federal Government to take the following actions provided those actions are taken for Federal Government purposes: (a) Reproduce the subject data, (b) Publish the subject data, (c) Otherwise use the subject data, and (d) Permit other entities or individuals to use the subject data, and
- (1) Special Federal Rights in Data for Research, Development, Demonstration, Deployment, and Special Studies Projects. In general, FTA’s purpose in providing Federal funds for a research, development, demonstration, deployment, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project to the Recipient and its Third-Party Participants, therefore, the Recipient agrees that: Publicly Available Report. When the Project is completed, it must provide a Project report that FTA may publish or make available for publication on the Internet,
- (2) Other Reports. It must provide other reports pertaining to the Project that FTA may request,
- (3) Availability of Subject Data. FTA may make available to any FTA Recipient or any of its Third-Party Participants at any tier of the Project, either FTA’s copyright license to the subject data or a copy of the subject data, except as the Federal Government determines otherwise in writing,
- (4) Identification of Information. It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA,
- (5) Incomplete Project. If the Project is not completed for any reason whatsoever, all data developed under the Project becomes “subject data” and must be delivered as the Federal Government may direct, but
- (6) Exception. Rights in Data and Copyrights Section E does not apply to an adaptation of automatic data processing equipment or program that is both:
 - (a) For the Recipient’s use, and
 - (b) Acquired with FTA capital program funding,

E. License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19:

- (1) License fees and royalties for copyrighted material or trademarks derived from Project are program income, and
- (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except:
 - (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and
 - (b) As FTA determines otherwise in writing,

F. Hold Harmless. Upon request by the Federal Government, the Recipient agrees that:

- (1) Violation by Recipient.

- (a) If it willfully or intentionally violates any:
 - (1) Proprietary rights, (2) Copyrights, or (3) Right of privacy, and
 - (b) Its violation occurs from any of the following uses of Project data:
 - (1) Publication, (2) Translation, (3) Reproduction, (4) Delivery, (5) Use, or (6) Disposition, then
 - (c) It will indemnify, save, and hold harmless against any liability, including costs and expenses of:
 - (1) The Federal Government's officers acting within the scope of their official duties,
 - (2) The Federal Government's employees acting within the scope of their official duties, and
 - (3) Federal Government's agents acting within the scope of their official duties, but
 - (2) Exceptions. The Recipient will not be required to indemnify the Federal Government for any liability described in Rights in Data and Copyrights Section G(1) if:
 - (a) Violation by Federal Officers, Employees or Agents. The violation is caused by the wrongful acts of Federal employees or agents, or
 - (b) State law. If indemnification is prohibited or limited by applicable State law,
 - G. Restrictions on Access to Patent Rights. Nothing in this Rights in Data and Copyrights section pertaining to rights in data either:
 - (1) Implies a license to the Federal Government under any patent, or
 - (2) May be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent,
 - H. Data Developed Without Federal Funding or Support. The Recipient understands and agrees that in certain circumstances it may need to provide data developed without any Federal funding or support to FTA. Nevertheless:
 - (1) Protections. Rights in Data and Copyrights Sections A, B, C, and D generally do not apply to data developed without Federal funding, even though that data may have been used in connection with the Project, and
 - (2) Identification of Information. The Recipient understands and agrees that the Federal Government will not be able to protect data developed without Federal funding from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential," and
 - I. Requirements to Release Data. The Recipient understands and agrees that the Federal Government may be required to release Project data and information the Recipient submits to the Federal Government as required by:
 - (1) The Freedom of Information Act, 5 U.S.C. § 552,
 - (2) Another applicable Federal law requiring access to Project records,
 - (3) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," specifically 49 C.F.R. § 19.36(d), or
 - (4) Other applicable Federal regulations and guidance pertaining to access to Project records.
- Transit Employee Protective Provisions** – Applicability – Contracts for transit operations except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

Public Transportation Employee Protective Arrangements

The Recipient agrees that 49 U.S.C. § 5333(b) requires employee protective arrangements to be in place as a condition of award of FTA assistance made available or appropriated for FTA programs involving public transportation operations. U.S. DOL recognizes the following categories of arrangements:

1. **U.S. DOL Certification** When its Project involves public transportation operations and is financed with funding made available or appropriated for 49 U.S.C. §§ 5307, 5309, 5312, 5337, or 5339, as amended by Map-21, or former 49 U.S.C. §§ 5308, 5309, 5312, or other provisions of law as required by the Federal Government, U.S. DOL must provide a Certification of employee protective arrangements before FTA may provide financial assistance for the Project. Therefore, the Recipient understands and agrees, and assures that any Third-Party Participant providing public transportation operations will agree, that:
 - (a) It must carry out the Project as provided in its U.S. DOL Certification, which contains the terms and conditions that U.S. DOL has determined to be fair and equitable to protect the interests of any employees affected by the Project,
 - (b) It must comply with 49 U.S.C. § 5333(b), and any future amendments thereto. It will follow the U.S. DOL guidelines, "Guidelines, Section 5333(b), Federal Transit Law," 29 C.F.R. part 215, except as U.S. DOL determines otherwise in writing,
 - (c) It must comply with the terms and conditions of the U.S. DOL certification of public transportation employee protective arrangements for the Project, which certification is dated as identified on the Underlying Agreement, including:
 - (1) Alternative comparable arrangements U.S. DOL has specified for the Project,
 - (2) Any revisions U.S. DOL has specified for the Project, or
 - (3) Both, and
 - (d) It must comply with the following documents and provisions incorporated by reference in and made part of the Underlying Agreement for the Project:
 - (1) The U.S. DOL certification of public transportation employee protective arrangements for the Project, which certification is dated as identified on the Underlying Agreement,
 - (2) The documents cited in that U.S. DOL certification for the Project,

- (3) Any alternative comparable arrangements that U.S. DOL has specified for the Project, and
 - (4) Any revisions that U.S. DOL has specified for the Project,
2. Special Warranty When its Project involves public transportation operations, and is financed with funding made available or appropriated for 49 U.S.C. § 5311, as amended by Map-21, for former 49 U.S.C. § 5311 in effect in FY 2012, or a previous fiscal year, or for section 3038 of TEA-21, as amended by section 3039 of SAFETEA-LU, U.S. DOL will provide a Special Warranty for those projects, including projects under the Tribal Transit Program. Therefore, the Recipient understands and agrees, and assures that any Third-Party Participant providing public transportation operations will agree, that:
- (a) It must comply with Federal transit laws, specifically 49 U.S.C. § 5333(b),
 - (b) Follow the U.S. DOL guidelines, "Guidelines, Section 5333(b), Federal Transit Law," 29 C.F.R. part 215, except as U.S. DOL determines otherwise in writing,
 - (c) It will comply with the U.S. DOL Special Warranty for its Project that is most current on the date when it executed the Underlying Agreement, and documents cited therein, including: (1) Any alternative comparable arrangements U.S. DOL has specified for the Project, (2) Any revisions U.S. DOL has specified for the Project, or (3) Both, and
 - (d) It will comply with the following documents and provisions incorporated by reference in and made part of the Underlying Agreement:
 - 1. The U.S. DOL Special Warranty for its Project,
 - 2. Documents cited in that Special Warranty,
 - 3. Alternative comparable arrangements U.S. DOL specifies for the Project, and
 - 4. Any revisions that U.S. DOL has specified for the Project, and
3. Special Arrangements for 49 U.S.C. § 5310 Projects. The Recipient understands and agrees, and assures that any Third Party Participant providing public transportation operations will agree, that although pursuant to 49 U.S.C. § 5310, and former 49 U.S.C. §§ 5310 or 5317, FTA has determined that it was not "necessary or appropriate" to apply the conditions of 49 U.S.C. § 5333(b) to Subrecipients participating in the program to provide public transportation for seniors (elderly individuals) and individuals with disabilities, FTA reserves the right to make the following exceptions:
- (a) FTA will make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and
 - (b) FTA reserves the right to make other exceptions as it deems appropriate.

Disadvantaged Business Enterprise (DBE) – Applicability – Contracts over \$10,000 awarded on the basis of a bid or proposal offering to use DBEs

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. If a separate contract goal has been established, Bidders/offers are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.

d. If no separate contract goal has been established, the successful bidder/offers will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.

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

City of Olean addition to this section: There is no DBE goal required for the RFP for the third-party contract to operate OATS. A Good Faith Effort is sufficient.

Prompt Payment – Applicability – All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

Incorporation of Federal Transit Administration (FTA) Terms – Applicability – All contractsexcept micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

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 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. Thecontractor shall not perform any act, fail to perform any act, or refuse to comply with any requestthat would cause the recipient to be in violation of FTA terms and conditions.

Drug & Alcohol Abuse and Testing – Applicability – Operational service contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

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 32, that implements the Drug-Free Workplace Act of 1988 as amended, 41 U.S.C. §§ 8103 et seq., and 2 CFR part 182,
- (b) Alcohol Misuse and Prohibited Drug Use. FTA Regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 USC 5331, as amended by Map-21, 49 CFR part 40, 49 USC chapter 53, 49 CFR Part 655, to the extent applicable.

Other Federal & Contract Requirements (not clauses):

Full and Open Competition – In accordance with 49 U.S.C. § 5325, all procurement transactionsshall be conducted in a manner that provides full and open competition.

Prohibition Against Exclusionary or Discriminatory Specifications – Apart from inconsistentrequirements 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 as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg.1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extentFTA determines otherwise in writing.

Safeguarding Protected Personally Identifiable Information (PPI)

U.S. DOT Common Rules requires Recipient to implement, and require any sub-grantee, if any, to implement reasonable measures to safeguard protected personally identifiable information as well as any information that the FTA or pass-through entity designates as sensitive.

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. Contractorshall 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 theAmericans 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 anaggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance tobe 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 asa 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 recipientshall 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 recipient's Procurement Guidelines, available upon request from the recipient.

Compliance with Federal Regulations – Any of Recipient's contracts shall contain the followingprovisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, areincorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated termsshall 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 granteerequest that would cause the recipient 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 recipient 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 shallat 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, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by Map-21, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor'sfailure to so comply shall constitute a material breach of this contract.

Recipient and any third-party participant(s) shall comply with 49 U.S.C. § 303, 23 C.F.R part 774,54 U.S.C. §306108, 54 U.S.C. 312501 et. seq., 36 C.F.R. part 800, 42 U.S.C. §1996, §3161 note

and Executive Order No. 13007 as such actions may relate to: Parks, Recreation Areas, Wildlife and Waterfowl Refuges; Historic Sites, Archeological and Historic Preservation, Protection of Historic Properties; preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, and facilitate compliance with the American Indian Religious Freedom Act; compliance with environmental mitigation measures related to environmental assessments, environmental

impact statements, categorical exclusions, memoranda of agreement, documents required under 49 U.S.C. § 303, and other environmental documents.

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," 70 Fed. Reg. 74087, December 14, 2005.

Environmental Justice - Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following:

- (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and
- (2) DOT Order 5610.2, "Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and
- (3) The most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance,

Environmental Protections - Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: The National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.S.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

Geographic Information and Related Spatial Data - Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

Geographic Preference

All project activities must be advertised without geographic preference, except as permitted by federal law, regulation, requirement or guidance. Such exception may include, but may not be limited to, A/E contracts under certain circumstances and preference for hiring veterans on transit construction projects.

Organizational Conflicts of Interest

The Recipient and subrecipient, if any, agrees that it will not enter a procurement that involves a real or apparent organizational conflict of interest described as follows:

- (1) When It Occurs. An organizational conflict of interest occurs when the Project work, without appropriate restrictions on certain future activities, results in an unfair competitive advantage:
 - (a) To that Third-Party Participant or another Third-Party Participant performing the Project work, and
 - (b) That impairs that Third Party Participant's objectivity in performing the Project work, or
- (2) Other. An organizational conflict of interest may involve other situations resulting in fundamentally unfair competitive conditions,
- (3) Disclosure Requirements. Consistent with FTA policies, the Recipient must disclose to FTA, and each of its Subrecipients must disclose to the Recipient:
 - (a) Any instances of organizational conflict of interest, or
 - (b) Violations of federal criminal law, involving fraud, bribery, or gratuity violations potentially affecting the federal award, and
- (4) Failure to Disclose. Failure to make required disclosures can result in remedies for noncompliance, including debarment or suspension.

Ethics

Standards of Conduct. At a minimum, the Recipient / Subrecipients will establish and maintain written Standards of Conduct covering conflicts of interest that:

- (1) Apply to the following individuals who have a present or potential financial interest, or other significant interest, such as a present or potential employment interest in the selection, award, or administration of a third-party contract or subcontract:
 - (a) The Recipient or its Subrecipients' officers, employees, board members, or agents engaged in the selection, award, or administration of any third-party agreement,
 - (b) The immediate family members or partners of those listed above in section (1)(a) of this Master Agreement, and
- (2) An entity or organization that employs or is about to employ any person that has a relationship with the Recipient or its Subrecipient listed above in sections (1)(a) and (b) of this Master Agreement; Prohibit those individuals listed above in section (1) from:
 - (a) Engaging in any activities involving the Recipient's or any of its Subrecipients' present or potential Third-Party Participants at any tier, including selection, award, or administration of a third-party agreement in which the individual has a present or potential financial or other significant interest, and
 - (b) Accepting a gratuity, favor, or anything of monetary value from a present or potential Third-Party Participant in the Recipient's Underlying Agreement, unless the gift is unsolicited and has an insubstantial financial or nominal intrinsic value; and
- (3) Establish penalties, sanctions, or other disciplinary actions for violations, as permitted by state or local law or regulations, that apply to those individuals listed above in section (1) and the Recipient's or Subrecipient's Third Party Participants.

Federal Single Audit Requirements for State Administered Federally Aid Funded Projects Non-Federal entities that expend \$750,000 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" (replaced with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" effective December 26, 2014 as applicable). 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 the amount above in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. 215 (a) of OMB Circular A-133 Subpart B--Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency the New York State Department of Transportation, the New York State Comptroller's Office and the U.S. Governmental Accountability Office (GAO).

Non-Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but no later than 9 months after the end of the entity's fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation's Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of Federal award payments.

Catalog of Federal Domestic Assistance (CFDA) Identification 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) is 20.509. A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," (replaced with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" effective December 26, 2014 as applicable) agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

Veterans Preference As provided by 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:

- (1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third-party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and
- (2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

– Applicability – all

The Contractor agrees to comply with the following Federal requirements:

- (a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
 - (1) Procure or obtain;
 - (2) Extend or renew a contract to procure or obtain; or
 - (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Checklist of Required Federal Clauses, Certifications & Other Recommended Federal & Contract Requirements

**FEDERALLY REQUIRED
CLAUSES
&
Other Recommended Federal
& Contract Requirements**

- Federal Procurement at a Glance**
- Buy America Requirements**
- Buy America's Requirements**
- Charter Bus Requirements**
- School Bus Requirements**
- Cargo Preference Requirements**
- Seismic Safety Requirements**
- Energy Conservation Requirements**
- Clean Water Requirements**
- Bus Testing**
- Pre-Award and Post-Delivery Audit Requirements**
- Leasing**
- Access to Records and Reports**
- Federal Changes**
- Bidding Requirements**
- Clean Air**
- Recycled Products****
- Davis-Bacon and Copeland Anti-Kickback Acts***
- Contract Work Hours and Safety Standards Act**
- No Government Obligation to Third Parties**
- Program Fraud and False or Fraudulent Statements and Related Acts**
- Corruption****
- Government-Wide Debarment and Suspension (Non-procurement)*****
- Privacy Act**
- Civil Rights Requirements**
- Bribe/Kickbacks and Dispute Resolution**
- Patent and Rights in Data**
- Tenant Employee Protective Agreements**
- Disadvantaged Business Enterprises (DBEs)**
- Prompt Payment**
- Incorporation of Federal Tenant Administration (FTA) Terms**
- Drug and Alcohol Testing**

^a Applicable only to units less than 12 mm.^a Application on acquisition is greater than 100 mg.^{***}applicable on acquisition if the grantee is less than \$25,000.

Other Federal & Contract Requirements

¹⁰ R = Recommended for inclusion in solicitation/contract language

- Bulk and Open Competition
- Prohibition Against Unlawful or Discriminatory Specifications
- Conformance with ITS National Architecture
- Access Requirements for Persons with Disabilities
- Notification of Federal Participation
- Interest of Member or Delegate to Congress
- Ineligible Contractors and Subcontractors
- Other Contract Requirements
- Compliance with Federal Regulations
- Real Property
- Access to Services for Persons with Limited English Proficiency
- Environmental Impact
- Information Management Practices
- Geographic Information and Related Use of Data
- Federal Single Audit Requirements
- Catalog of Federal Domestic Assistance (CFDA) Identification Number
- The CIDA number for FTA

FEDERALLY REQUIRED CERTIFICATIONS

Federal Procurement Certifications
 Certification Regarding Lobbying
 Certification Regarding Debarment and Suspension
 Certifications of Hs Testing and Test Report
 Pre-Award Recipient Certification (Rolling Stock)
 Pre-Award Vendor Certification (Rolling Stock)
 Buy America Pre-Award Certification (Steel, Iron, Manufactured Products)
 On-Site Impact on Road *
 Transit Vehicle Manufacturer Certification

^aBased on population and number of unit.

Above \$mil Purchase	
PROFESSIONAL	
ARCHITECTURAL	
ENGINEERING	
ARCHITECTURAL/ENGINEERING	
OPERATIONS/MAINTENANCE	
ROLLING STOCK	
CONSTRUCTION	
MATERIALS & SUPPLIES	

[illegible]

Small Purchase	
PROFESSIONAL	
ARCHITECTURAL	
ENGINEERING	
ARCHITECTURAL ENGINEERING	
OPERATIONS/MANAGEMENT	
ROLLING STOCK	
CONSTRUCTION	

[illegible]

Micropurchase	
PROFESSIONAL	
ARCHITECTURAL	
ENGINEERING	
ARCHITECTURAL ENGINEERING	
OPERATIONS/MANAGEMENT	
ROLLING STOCK	
CONSTRUCTION	
MATERIAL & SUPPLIES	

[illegible][illegible][illegible][illegible][illegible][illegible]

Micropurchase							
	PROFESSIONAL	ARCHITECTURAL	ENGINEERING	ARCHITECTURAL ENGINEERING	OPERATIONS/MANAGEMENT	ROLLING STOCK	CONSTRUCTION MATERIAL & SUPPLIES
\$0 - \$3,000	no	no	no	no	no	no	no
no	no	no	no	no	no	no	no
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no	no	no	no	no	no	no	no
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no	no	no	no	no	no	no	no
no	no	no	no	no	no	no	no
no	no	no	no	no	no	no	no
no	no	no	no	no	no	no	no
no	no	no	no	no	no	no	no
no	no	no	no	no	no	no	no

PART B

STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, “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 State’s previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller’s approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor’s business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments 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, if this contract exceeds \$50,000 (or \$75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and \$150,000 for State University Health Care Facilities) 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 \$25,000, 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, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed \$85,000. Comptroller’s approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed \$125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds \$200,000.

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 non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. 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. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

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 thereunder. 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 (2 NYCRR § 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. 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) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, 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 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 the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, 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 and 5 NYCRR Part 143, 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 the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(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, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts 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. 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 clause. 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 Department of Economic Development’s Division of Minority and Women’s Business Development 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 Section 165 of the State Finance Law, (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. 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.

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 and Technology Development
625 Broadway
Albany, New York 12245
Telephone: 518-292-5100

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
633 Third Avenue 33rd Floor
New York, NY 10017
646-846-7364
email: mwbebusinessdev@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) 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.

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, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS.

Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law §§ 899-aa and 899-bb and State Technology Law § 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.

If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall

timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a “procurement contract” as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: <https://ogs.ny.gov/iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the

Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

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

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 2-S
IRAN DIVESTMENT ACT

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act’s effective date, at which time it will be posted on the OGS website.

By entering into a renewal or extension of this Contract, Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Contractor understands that during the term of the Contract, should NYSDOT receive information that a person is in violation of the above-referenced certification NYSDOT will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then NYSDOT shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

NYSDOT reserves the right to reject any renewal, extension or request for assignment for an entity that appears on the prohibited entities list hereafter and to pursue a responsibility review with respect to any entity that is granted a contract extension/renewal or assignment and appears on the prohibited entities list thereafter.

PART C

PROJECT DESCRIPTION, TERM, FUNDING AND PAYMENT PROCEDURES

This project consists of operating assistance for public transportation service in the City of Olean and its environs in Cattaraugus County provided by the Carrier during the time period of service commencing June 1, 2024, and terminating on May 31, 2025.

The Federal Share of the Carrier's reimbursable operating expenses to be paid by the Municipal Corporation to the Carrier is estimated in each of the Municipal Corporation's annual Project Applications. The actual amount of the Federal Share shall be determined by an annual report.

The New York State funding share is made available through the Statewide Transit Operating Assistance (STOA) program, which requires the submission of quarterly reports.

The local funding share is made available from local funding partners contributing to the operation of the OATS system.

Payment Procedures:

- A. Contractors must bill on City vouchers, as applicable.
- B. All invoices with respect to services hereunder shall be presented no later than ten (10) days after close of the month during which such services were performed. Invoices not presented within such time frame shall not be paid.
- C. Based on the funding shares specified in the approved project budget, the contractor will receive the pro-rated share of total project costs assisted by the federal grant funding in each approved monthly payment.

Appendix H
Olean Civil Rights Statement

The **Olean Area Transit System** is committed to providing non-discriminatory service to ensure that no person is excluded from participation in, or denied the benefits of, or be subjected to discrimination in the receipt of its services on the basis of race, color, or national origin as protected by Title VI of the Civil Rights Act of 1964 ("Title VI").

To request additional information about Title VI, or if you believe you have been subjected to discrimination and would like to submit a written complaint, you may contact:

Keri L. Kerper
City of Olean
101 East State Street
Olean, N.Y. 14760
Ph: 716-376-5647
E-Mail: kkerper@cityofolean.org

Fair Treatment for Everyone Your Rights under Title VI of the Civil Rights Act of 1964

Know Your Rights

You have the right to be treated fairly during the transportation planning process. Federal law prohibits discrimination. This law is known commonly as Title VI.

The phrase "title six" refers to a section of the Civil Rights Act of 1964 (Title VI) that prohibits discrimination on the basis of race, color, national origin, gender, age, disability, or socioeconomic status in any program or service that receives federal funds.

The Olean Area Transit System (OATS) knows how important it is to make sure that the work it does is fair and meets all the requirements of Title VI.

Our Policy

The OATS assures that all of the services, programs, and activities that we provide are administered fairly, without regard to race, color, national origin, gender, age, disability, or economic status. The OATS also makes efforts to prevent discrimination through the impacts of its programs on minority and low-income populations. In addition, OATS takes reasonable steps to provide meaningful access to programs for persons with limited English proficiency.

Do You Feel That You Have Been Treated Unfairly?

If you believe that you have been treated unfairly, you may file a complaint. Complaints may be filed by any person who believes that he or she has been excluded from participation in, been denied the benefits of, or otherwise subjected to discrimination under any service, program, or activity of the OATS, and believes the discrimination is based upon race, color, national origin, gender, age, disability, economic status, or limited English proficiency. All complaints will be investigated.

A complaint must be submitted within 180 days of the alleged discriminatory act.

Federal laws prohibit a recipient of federal funds from retaliating against any person who has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.

Any person alleging discrimination may file a written or oral complaint with the Olean Area Transit System:

Olean Area Transit System
Department of Community Development, Room 209
101 East State Street
Olean, NY 14760
Attention: Civil Rights
(716) 376-5647

APPENDIX I

ACKNOWLEDGMENT OF RECEIPT OF RFP, ADDENDUM(S) AND RESPONSES TO QUESTIONS AND CLARIFICATIONS

NAME OF PROPOSER

We hereby acknowledge receipt of the Olean Area Transit System OATS Bus Service Proposal Request for Proposals, dated November 8, 2023, and subsequent Addendum(s) and responses to Requests concerning Omissions/Questions or Clarifications issued by the City, as listed below.

Add additional lines in tables below, if needed.

Addendum number:	Date issued by City of Olean:
SIGNED	
DATE	
NAME (printed or typed)	
TITLE	