

# REQUEST FOR PROPOSALS

Number\_2021-1\_\_\_\_\_

## TRANSPORTATION SERVICES

Responses due: 9/24/2021 by 17:00EST

FRS Transportation Inc.  
313 Chillicothe Ave  
Hillsboro, OH 45133

FRS Transportation Inc. (referred to hereafter as "FRST") adheres to the following selection and contracting process:

1. (8/30/2021) Issue RFP
2. Questions due on (9/10/2021) at (17:00EST)
3. Receive RFP qualifications packages (deadline of (9/24/2021) at (17:00EST)
4. Review RFP qualifications with selection committee (9/27/21 to 10/1/21)
5. Interview respondents as necessary\* (9/27/21 to 10/08/21)
6. Select qualified vendor(s) of transportation services (10/15/21)
7. Issue Recommendation for Contract Award (10/29/21) Board
8. Contracting process with Highland County (11/01/21 to 11/05/21)
9. Contracting process with Adams County (11/01/21 to 11/05/21)
10. Expected contract execution date (11/1/2021)
11. Initiation of service (01/01/22)

*\*FRST reserves the right to select a vendor, or multiple vendors, based on qualifications and price. FRST also reserve the right not to hold interviews or change the date if necessary.*

All attachments must be filled out completely. Federal and state regulations mandate that all attachments be submitted.

If you have questions, please contact Damon Lucas, Transportation Director, at 937-393-0585 or [dlucas@familyrecoveryservices.org](mailto:dlucas@familyrecoveryservices.org)

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## **1. INTRODUCTION AND STATEMENT OF WORK**

### **1.1 Overview**

FRST provides demand-responsive transportation services to the general public in Adams and Highland Counties and to eligible destinations throughout Ohio. The transportation program is funded by Federal Transportation Administration (FTA) Section 5311 rural public transit grant funding, the Ohio Department of Transportation (ODOT), and multiple local funding sources. These local funding sources include human service agencies that purchase transportation service from FRST for clients.

FRST functions on an operational basis under the rules and regulations of the United States Department of Transportation (USDOT) through the Federal Transit Administration (FTA), applicable Ohio laws, and local ordinances as well as the Adams and Highland County Boards of Commissioners. Customer service is an essential part of this service. Providing a public transportation service requires skills, attitudes, aptitudes, and sensitivities, which are important to FRST and its passengers.

In this RFP, FRST is seeking that combination of expertise, customer sensitivity, and delivery of quality transportation service that is the most advantageous to FRST and its passengers. To be considered, vendors must submit a full response to the RFP, using the format prescribed herein.

### **1.2 Term of Engagement**

The term of the contract will start January 1<sup>st</sup> 2022 and will last one year, with no more than two one-year extensions options to be exercised at the discretion of FRST with notice to the selected vendor(s).

### **1.3 Scope of Services**

FRST is seeking to procure one or more transportation vendors to provide public and human service transportation in Adams and Highland Counties, including out-of-county destinations for approved trip purposes. The current service days/hours are Monday through Friday, 4:00 a.m. to 11:00 p.m. Trip destinations are throughout Ohio with the majority of destinations located in Cincinnati, Hillsboro, Greenfield, Columbus, Dayton, Wilmington, West Union, Portsmouth, and Maysville.

This RFP calls for vendors that:

- ◆ Provide pre-scheduled, origin to destination transportation service to clients referred by FRST using vehicles supplied by the contractor;
- ◆ Provide a strong customer experience and deliver upon the basic civil rights principles of equity and accessibility inherent in public transportation;
- ◆ Are trained, qualified operators of transportation according to the standards outlined in the Sample Contract included in this RFP (Appendix B);

- ◆ Maintain insurance coverage by meeting all local, state, and federal law applicable to the type of transportation provided;
- ◆ Pass all required background criminal history and motor vehicle records checks;
- ◆ Participate in a drug and alcohol testing program that complies with 49 C.F.R. part 655;
- ◆ Keep one or more clean and well-maintained vehicles meeting all safety requirements specified within the Sample Contract (Appendix B).
- ◆ Abide by the rules and requirements specified in the Sample Contract (Appendix B).

#### **1.4 Proposal Submission Instructions**

Proposal packages must include the following:

1. History of the firm
2. Experience providing comparable services on behalf of transit or human service agencies
3. Managerial experience
  - a. Resumes and qualifications
4. Driver qualification standards
5. Driver training standards and on-going safety/security checks
6. Vehicle fleet proposed for use in this service
  - a. Make
  - b. Model year
  - c. Mileage
  - d. Condition
  - e. Passenger capacity
7. Signed Federal Certifications (Appendix A)
8. Signed RFP addenda, if applicable
9. Proof of insurance
10. Proposed price per passenger-mile

#### **1.5 RFP Written Questions/Answers**

Please submit questions regarding this RFP to [dlucas@familyrecoveryservices.org](mailto:dlucas@familyrecoveryservices.org).

Questions may be submitted at any time prior to the question submission deadline of 9/10/21 at 17:00EST. An addendum with responses to questions received in writing by 9/13/21 will be posted at <https://www.frstransportation.org> on 9/15/21 by end of day and will become part of the solicitation. Any questions submitted after the posted addendum may not be answered and therefore may not be included in the solicitation. The addenda must be printed and signed by the vendor and included with the proposal package.

#### **1.5 Federal Participation**

All or part of the services provided by selected vendor(s) may be supported in part by Federal financial assistance provided by the Federal Transit Administration through the Ohio Department of Transportation. As such, numerous requirements may apply to this contractor. Potential offerors should examine the requirements set forth in Section 3 of this RFP. By submission of a proposal in response to this solicitation, the offeror is assuring that it will comply with all applicable Federal requirements.

## **2. CONTRACT AWARD AND PAYMENT**

### **2.1 Basis for Evaluation and Award**

This RFP and the resulting submissions of qualifications shall be used as the basis for contract negotiation.

The following factors will be used by FRST in the evaluation of proposals:

- Quality of the proposal (10 points)
- Experience of the firm in providing comparable services (30 points)
- Driver training and on-going monitoring (30 points)
- Condition and quality of the vehicles proposed for use in this service (20 points)
- Price (10 points)

FRST, at its sole discretion, may award multiple contracts under this award.

### **2.2 Receipt of Proposals**

Submissions of qualifications marked "Public Transportation Services" will be received at FRST, 313 Chillicothe Ave, Hillsboro, OH 45133 until (9/24/21 - 17:00EST). It is acceptable to send full and complete submissions via email to [dlucas@familyrecoveryervices.org](mailto:dlucas@familyrecoveryervices.org), using the same deadline. Submissions of qualifications received after that date and time will not be considered.

### **2.3 Rejection of Proposals**

- A. FRST reserves the right to reject all submissions in response to this solicitation. Issuance of this RFP does not bind FRST to award a contract, nor does it obligate FRST to award of a contract. FRST reserves the right, as the interests of the FRST may require, to postpone, accept or reject any and all proposals and to waive any informalities in the proposals it receives, and to award the contract(s) to the best responsive and responsible proposer(s).
- B. In awarding a contract(s), the FRST reserves the right to consider all elements entering into the determination of the responsibility of the proposer. Any proposal which is incomplete, conditional, obscure, or which contains additions not called for, or irregularities of any kind, may be cause for rejection of the proposal.

### **2.4 Contract Award**

A cost reimbursement contract will be awarded after approval by the FRS Transportation Board.

## **2.5 Proprietary Information**

If a proposal includes proprietary data or information that the proposer does not want disclosed to the public, such data or information must be specifically identified as such on every page on which it is found. Data or information so identified will be used by FRST solely for the purpose of evaluating proposals and conducting contract negotiations. Disclosure of any proprietary information by FRST shall be in strict accordance with the laws and regulations regarding disclosure in the State of Ohio.

## **2.6 Cost of Proposal Preparation**

The cost of preparing a response to this RFP will not be reimbursed by FRST.

## **2.7 Availability of Funds**

Payment will be made for actual services delivered to authorized eligible recipients as determined by the FRST. The maximum amount paid to the Provider will depend on the total amount of services authorized by the eligible recipients. Payment for all services provided in accordance with the provisions of this contract are contingent upon the availability of Federal and State funds for Pregnancy Related Transportation, Medicaid, Title XX, and private pay services authorized by FRST.

## **2.8 Payment**

“No Shows” will not be paid.

No empty miles will be paid.

In the event a client’s out of county scheduled return trip is cancelled after arrival at drop off destination, Contractor will be paid half the normal rate of the return mode.

At times, there may be group travel, private pay requests or special circumstances where a lesser rate may be requested. It will be up to the Contractor to accept or deny services with reimbursement that varies from the standard pay rate outlined above.

Passengers with disabilities are entitled to be accompanied by one attendant at no additional charge as provided under the Americans with Disabilities Act. The contractor will not be compensated for such attendants.

## **2.9 Procedures for Documenting Services Rendered**

Tablet computers will be supplied by FRST to contractors for trip dispatching purposes. The contractor shall electronically submit their completed schedule on a daily basis by validating their schedule on their tablet at the end of their scheduled shift, encompassing all services to delivered to eligible individuals. No paper schedules will be accepted as an invoice for payment.

The Ecolane software system will include actual expenditures, the number of people serviced, number of units, the number of hours, and amount to be paid based on the negotiated contract. The FRST will review the generated report before making payment within 30 days. The reported expenditures will be subject to adjustment by the FRST before such payment is made in order to verify completeness. The contractor is responsible for ensuring all information validated on the tablet is accurate and correct. Errors in payment to the contractor must be reported to the FRST office within 15 days after payment is made.

#### **2.10 Subcontracting**

No subcontracting shall be permitted without the express written approval of the FRST.

#### **2.11 Duplicate Billing**

The contractor will warrant that claims made to the FRST for payment for purchased services shall be for actual services rendered to eligible individuals and not duplicate claims made by the contractor to other entities or funders for the same services. Repeated duplicate billings may constitute grounds for FRST to terminate the contract.

#### **2.12 Financial Records**

The contractor shall maintain independent books, records, payroll, documents, accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of the resultant contract. Such records shall be subject at all reasonable times for inspection, review or audit by duly authorized Federal, State, Adams and Highland County Department of Job and Family Services, and FRST personnel.



### **3. REQUIRED CLAUSES**

#### **3.1 Indemnification**

Contractor shall indemnify and save harmless FRST, its trustees, officers and employees from and against all loss, costs, liability, damage and expense whether direct, consequential or incidental, for personal injury and for property damage, such loss, costs, liability, damage and expense arising out of, or resulting in whole or in part, directly or indirectly, from work or operations under the contract but not limited to the acts, errors, omissions and negligence of Contractor's employees and agents, except to the extent of liability imposed due to FRST's own negligence.

#### **3.2 Laws of Ohio**

The rights and duties of the parties hereto shall be determined by the laws of the State of Ohio, and to that end the contract shall be construed and considered as a contract made and to be performed in the Counties of Adams and Highland, Ohio.

#### **3.3 State Industrial Compensation**

Contractor shall comply with the state law known as the Workers' Compensation Act, Chapter 4123, Ohio Revised Code as applicable, and shall pay into the State Insurance Fund the necessary premiums required by that Act to cover all employees furnishing the services purchased under the terms of this contract and under the control of Contractor, and shall relieve FRST from any costs due to accidents or other liabilities mentioned in said Act. If Contractor is a self-insurer under the Ohio Workers' Compensation Act, and duly authorized as such by the Industrial Commission of Ohio, it shall tender to FRST proof of such status. Contractor shall, from time to time upon request, tender to FRST a certificate evidencing its compliance with the Workers' Compensation Act.

#### **3.4 Independent Contractor**

Contractor shall be and remain an independent contractor with respect to all service performed hereunder and agrees to and does hereby accept full and exclusive liability for the payment of any and all contributions or taxes for Social Security, unemployment insurance, or old age retirement benefits, pensions, or annuities now or hereafter imposed under any state or federal law which are measured by the wages, salaries, or other remuneration paid under this contract, and further agrees to indemnify and save harmless FRST from any such contributions or taxes or liability thereof.

#### **3.5 Assignability**

The terms and provisions of the Contract Documents shall be binding upon FRST and the Contractor and their respective partners, successors, heirs, executors, administrators, assigns and legal representatives. The rights and obligations of the Contractor under the Contract may

not be transferred, assigned, sublet, mortgaged, pledged or otherwise disposed of or encumbered in any way. The Contractor may subcontract a portion of its obligations to other firms or parties but only after having obtained the written approval by FRST of the subcontractor, which approval shall not be unreasonably withheld. FRST may assign its rights and obligations under the Contract to any successor to the rights and functions of FRST or to any governmental agency to the extent required by applicable laws and governmental regulations or to the extent FRST deems necessary or advisable under the circumstances.

### **3.6 Changes in the Work/Change Orders**

Oral changes are not permitted. No change in the contract shall be made unless the FRST gives prior written approval therefore. The Contractor shall be liable for all costs resulting from, and/or for satisfactorily correcting any change in the work not authorized by the FRST in writing. The Contractor shall submit to the FRST a detailed pricing and schedule proposal for the work to be performed under the change order. The proposal may be accepted by the FRST or may be modified by negotiations between the Contractor and FRST. A change order amendment shall be executed in writing by both parties. Disagreements that cannot be resolved within negotiations shall be resolved in accordance with the contract "Disputes" clause. Regardless of any disputes, the Contractor shall proceed with the work ordered, provided the Contractor has obtained the prior concurrence of FRST.

### **3.7 Duty to Inform**

If at any time during the performance of this contract, the Contractor becomes aware of actual or potential problems, fault defect in the project or any nonconformance with any contract document, Federal, State or local law, rule or regulation, the Contractor shall give immediate notice thereof to FRST's Director.

### **3.8 Insurance**

Every contractor shall, prior to performing services under this contract, submit proof of liability insurance coverage of no less than \$1,000,000 per occurrence and \$1,000,000 in aggregate. The policy shall remain in full force and effect during the entire licensing period.

The policy shall further provide that the insolvency or bankruptcy of the insured shall not release the insurance company from payment required to be made by the policy otherwise, but shall remain in full force and effect, and available to any person damaged the same as though the licensee was not insolvent or bankrupt.

The policy shall provide in addition to the aforesaid provisions, that no notice of any acts creating any liability there under will be required from FRST; that the policy shall not be cancelled before ten days written notice of intention to cancel has been given the FRST; and that the policy shall not be revocable, but shall remain in full force and effect until ten days have elapsed from the date of service of the written notice.

### **3.9 Access to Records and Reports**

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

### **3.10 Americans with Disabilities Act (ADA)**

The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The contractor also agrees to comply with all applicable requirements of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with 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 persons with disabilities, including any subsequent amendments to that Act, and with 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 persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

### **3.11 Civil Rights Laws and Regulations**

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

1. Nondiscrimination on the Basis of Sex. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination

on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.

2. Nondiscrimination on the Basis of Age. The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.
3. Federal Protections for Individuals with Disabilities. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

### **Civil Rights and Equal Opportunity**

FRST is an Equal Opportunity Employer. As such, FRST agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, FRST agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

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

compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

2. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

### **3.12 Clean Air Act and Federal Water Pollution Control Act**

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 74017671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 12511387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

#### **Clean Air Act**

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to FRST and understands and agrees that FRST will, in turn, report each violation as required to assure notification to FRST, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

#### **Federal Water Pollution Control Act**

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to FRST and understands and agrees that FRST will, in turn, report each violation as required to assure notification to FRST, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

### **3.13 Contract Work Hours and Safety Standards Act**

- a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs.

- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.
- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

**Compliance with the Contract Work Hours and Safety Standards Act**

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 forty 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 forty 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 the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), 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 forty 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. FRST 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 any moneys payable on account of work performed by the 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 and 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. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

### **3.14 Debarment and Suspension**

Applicability: This requirement applies to all FTA grant and cooperative agreement programs for a contract in the amount of at least \$25,000.

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) The accompanying certification is a material representation of fact relied upon by the subrecipient. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to FRST and subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

### **3.15 Disadvantaged Business Enterprise (DBE)**

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Agency deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as nonresponsible. 49 C.F.R. § 26.13(b).

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 C.F.R. § 26.29(a).

Finally, for contracts with defined DBE contract goals, each FTA Recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency's written consent; and that, unless the Agency's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

It is the policy of the Agency and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

### **3.16 Energy Conservation**

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

### **3.17 Equal Employment Opportunity**

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has



access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- (4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by FRST, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by FRST and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

### **3.18 Federal Changes**

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

### **3.19 Incorporation of Federal Transit Administration (FTA) Terms**

The provisions within include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in the current FTA Circular 4220 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 Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

### **3.20 No Government Obligation to Third Parties**

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

### **3.21 Procurement of Recovered Materials**

- (1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA designated items unless the product cannot be acquired—
  - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
  - ii. Meeting contract performance requirements; or
  - iii. At a reasonable price.
- (2) Information about this requirement, along with the list of EPA designated items, is available at EPA's Comprehensive Procurement Guidelines web site,  
<https://www.epa.gov/smm/comprehensiveprocurementguidelinecpgprogram>.

### **3.22 Program Fraud and False of Fraudulent Statements and Related Acts**

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

### **3.23 Prompt Payment**

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. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

The contractor must promptly notify FRST, 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 FRST.

### **3.24 Public Transportation Employee Protective Arrangements**

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1. Special Warranty. When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.
2. Special Arrangements. The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to 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 make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

### **3.25 Safe Operation of Motor Vehicles**

#### **Seat Belt Use**

The Contractor is encouraged to adopt and promote 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. The terms "company owned" and "company leased" refer to vehicles owned or leased either by the Contractor or FRST.

#### **Distracted Driving**

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

### **3.26 School Bus Operations**

The contractor agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
2. FTA regulations, "School Bus Operations," 49 C.F.R. part 605
3. Any other Federal School Bus regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

If Contractor violates this School Bus Agreement, ODOT may:

1. Bar the Contractor from receiving Federal assistance for public transportation; or
2. Require the contractor to take such remedial measures as FTA considers appropriate.

When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities.

The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

### **3.27 Substance Abuse Requirements**

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, ODOT, or FRST, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with part 655 and to submit the Management Information System (MIS) reports to FRST.

Independent Contractors agree to participate in FRST's drug and alcohol testing program that complies with 49 C.F.R. part 655.

### **3.28 Termination**

#### **Termination for Convenience**

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

#### **Termination for Default [Breach or Cause]**

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, FRST may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by FRST that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, FRST, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

#### **Opportunity to Cure**

FRST, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor an appropriately short period of time in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions.

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

#### **Waiver of Remedies for any Breach**

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

#### **Termination for Convenience**

FRST, by written notice, may terminate this contract, in whole or in part, when it is in FRST's interest. If this contract is terminated, FRST shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

#### **Termination for Default**

If the 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 the Contractor fails to comply with any other provisions of this contract, FRST may terminate this contract for default. FRST shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will 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 the Contractor has possession of FRST's goods, the Contractor shall, upon direction of FRST, protect and preserve the goods until surrendered to FRST or its agent. The Contractor and FRST shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

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

### **Termination for Convenience or Default (Cost-Type Contracts)**

FRST may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of FRST or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from FRST, or property supplied to the Contractor by FRST. If the termination is for default, FRST may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to FRST and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of FRST, the Contractor shall be paid its contract closeout 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, FRST determines that the Contractor has an excusable reason for not performing, FRST, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

## **3.29 Violation and Breach of Contract**

### **Rights and Remedies of FRST**

FRST shall have the following rights in the event that FRST deems the Contractor guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as FRST for and at the expense of the Contractor, either directly or through other contractors;
2. The right to cancel this

Contract as to any or all of the work yet to be performed; 3. The right to specific performance, an injunction or any other appropriate equitable remedy; and 4. The right to money damages.

#### Rights and Remedies of Contractor

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by FRST, the Contractor expressly agrees that no default, act or omission of FRST shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless FRST directs Contractor to do so) or to suspend or abandon performance.

#### Remedies

Substantial failure of the Contractor to complete the Project in accordance with the terms of this Contract will be a default of this Contract. In the event of a default, FRST will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Contract by the Contractor before FRST takes action contemplated herein, FRST will provide the Contractor with sixty (60) days written notice that FRST considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

#### Disputes

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by an authorized representative of FRST. This decision shall be final and conclusive unless within 10 days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to FRST's authorized representative. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of FRST's authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with FRST's direction or decisions made thereof.

#### Performance during Dispute

Unless otherwise directed by FRST, 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 its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

#### Remedies

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

#### Rights and Remedies

The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by FRST 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.



## **4. PROTEST PROCEDURES**

### **4.1 Pre-Proposal Protests**

All protests concerning solicitation specifications, criteria and/or procedures shall be submitted in writing (defined as being sent or received via letter or facsimile on official firm/company letterhead or by electronic mail) to the FRST Director as specified below not later than one business day prior to the deadline for submission of bids/proposals.

FRS Transportation  
Attention: Transportation Director  
PO Box 502  
Hillsboro, OH 45133  
dlucas@familyrecoveryservices.org

The Transportation Director may, within his or her discretion, postpone the deadline for submission of bids/proposals, but in any case, shall provide a written response to all protests not later than five business days prior to the deadline for submission of bids/proposals. If the deadline for submission of bids/proposals is postponed by the Transportation Director as the result of a protest the postponement will be announced through an addendum to the solicitation.

The decision by the Transportation Director shall be the final FRST decision on the matter but shall be subject to judicial review as set forth by FTA below.

### **4.2 Pre-Award Protests**

With respect to protests made after the deadline for submission of bids/proposals but before contract award by FRST, protests shall be limited to those protests alleging a violation of Federal or State law, a challenge to the bids/proposals evaluation and award process, FRST 's failure to have or follow its protest procedures or its failure to review a complaint or protest. Such protests shall be submitted in writing (defined as being sent or received via letter or facsimile on official firm/company letterhead or by electronic mail) to the Transportation Director as specified below not later than five business days after the Recommendation for Contract Award announcement by FRST.

The Transportation Director may, within his or her discretion, postpone the award of the contract, but in any case, shall provide a written response to all protests not later than three business days prior to the date that FRST shall announce the contract award.

The decision by the Transportation Director shall be the final FRST decision on the matter but shall be subject to judicial review as set forth or review by ODOT as specified below.

### **4.3 Requirements for Protests**

All protests must be submitted to FRST in writing (defined as being sent or received via letter or facsimile on official firm/company letterhead or by electronic mail), with sufficient documentation, evidence and legal authority to demonstrate that the Protestor is entitled to the relief requested. The protest must be certified as being true and correct to the best knowledge and information of the Protestor, and be signed by the Protestor. The protest must also include a mailing address to which a response should be sent.

Protests received after the deadlines for receipt of protests specified above are subject to denial without any requirement for review or action by FRST.

All protests must be directed in writing (defined as being sent or received via letter or facsimile on official firm/company letterhead or by electronic mail) to the Transportation Director at the address shown in the solicitation documents.

#### **4.4 Protest Response**

The Transportation Director shall issue written responses to all protests received by the required protest response dates. All protest responses shall be transmitted by first-class U.S. Postal Service to the address indicated in the protest letter.

For convenience, FRST will also send a copy of the response to a protest to the Protester by facsimile and/or electronic mail if a facsimile number and/or electronic mail address are indicated in the protest letter. The protest response transmitted by U.S. Postal Service shall be the official FRST response to the protest and FRST will not be responsible for the failure of the Protester to receive the protest response by either facsimile or electronic mail.

#### **4.5 Review of Protests by ODOT**

All protests involving contracts financed with Federal assistance shall be disclosed to ODOT. Protesters shall exhaust all administrative remedies with FRST prior to pursuing protests with ODOT. ODOT limits its reviews of protests to: a grantee's failure to have or follow its protest procedures; a grantee's failure to review a complaint or protest when presented an opportunity to do so; or violations of Federal law or regulation. Appeals to ODOT must be received within five working days of the date the Protester has received actual or constructive notice of FRST final decision or within five working days of the date the Protester has identified other grounds for appeal to ODOT.

## **5. REQUIRED FORMS**

### **5.1 Non-Collusion Affidavit**

Respondent shall submit an affidavit stating that neither the respondent nor its agents, nor any other party on its behalf, has paid or agreed to pay, directly or indirectly, any person, firm, or corporation, any money or valuable consideration for assistance in procuring or attempting to procure the contract that may result from this RFP, and further agrees that no such money or consideration will be hereafter paid. This affidavit must be on the form provided by FRST which is made a part of this RFP.

### **5.2 Byrd Anti-Lobbying Amendment**

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. 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 any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to FRST. Respondent shall submit an affidavit affirming compliance on the form provided by FRST which is made a part of this RFP.

### **5.3 Debarment Certification**

Respondent shall submit an affidavit stating that it will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200. This affidavit must be on the form provided by FRST which is made a part of this RFP.

## **APPENDIX A: REQUIRED FEDERAL CERTIFICATIONS**

## CERTIFICATION AND RESTRICTIONS ON LOBBYING

I, \_\_\_\_\_, hereby certify  
(Name and Title of Official)

on behalf of \_\_\_\_\_ that:  
(Name of Bidder/Company Name)

- No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any FRST, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any FRST, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

The undersigned certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801, et seq., are applicable thereto.

(Please sign on following page)

Signed: \_\_\_\_\_  
Proposer or Agent

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public SEAL

Dated at \_\_\_\_\_  
City State Date

## **GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)**

**Instructions for Certification:** By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

- (1) It will comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 CFR part 180,
- (2) To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
  - a. Are eligible to participate in covered transactions of any Federal department or FRST and are not presently:
    1. Debarred,
    2. Suspended,
    3. Proposed for debarment,
    4. Declared ineligible,
    5. Voluntarily excluded, or
    6. Disqualified,
  - b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:
    1. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
    2. Violation of any Federal or State antitrust statute, or,
    3. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,
  - c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,
  - d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,
  - e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a – 2.d above, it will promptly provide that information to FTA,
  - f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
    1. Equals or exceeds \$25,000,
    2. Is for audit services, or,
    3. Requires the consent of a Federal official, and
  - g. It will require that each covered lower tier contractor and subcontractor:
    1. Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
    2. Assure that each lower tier participant in its Project is not presently declared by any Federal department or FRST to be:
      3. a. Debarred from participation in its federally funded Project,
      - b. Suspended from participation in its federally funded Project,
      - c. Proposed for debarment from participation in its federally funded Project,
      - d. Declared ineligible to participate in its federally funded Project,
      - e. Voluntarily excluded from participation in its federally funded Project, or
      - f. Disqualified from participation in its federally funded Project, and

4. It will provide a written explanation as indicated on a page attached in FTA's TrAMS platform or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third-Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.
- (3) It will provide a written explanation as indicated on a page attached in FTA's TrAMS platform or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third-Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

**Certification**

Contractor: \_\_\_\_\_

Signature of Authorized Official: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Name and Title of Contractor's Authorized Official:

\_\_\_\_\_



**AFFIDAVIT OF NON-COLLUSION**

The undersigned, having submitted a bid, quote, or proposal for **RFP 2021-01\_ Transportation Services** in accordance with notice given by FRS Transportation (FRST) for the purposes or support of the transportation services in and for Adams or Highland County, Ohio, for and behalf of him/her self, or themselves, first being duly sworn says:

That said bidder, quoting party, or proposer has not directly or indirectly entered into any combination, collusion, undertaking, or agreement relative to price to be bid by any person, or to prevent any person, or persons, or company from submitting pricing; or to entice any bidder, quoting party, or proposer to refrain from pricing for such supplies, merchandise, service, or contract, and that said bid so made is without reference or regard to any other bid or bids, and without agreement, understanding or combination, either directly or indirectly, with any person or persons, with reference to such bidding in any way or manner whatsoever.

Signed: \_\_\_\_\_  
Proposer or Agent

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

SEAL

Dated at \_\_\_\_\_  
City State Date

## **APPENDIX B: SAMPLE CONTRACT**

## CONTRACT FOR THE PURCHASE OF TRANSPORTATION SERVICES

This Contract made and entered into on **January 01, 2022** by and between the FRS Transportation Board, by and through FRS Transportation Inc. ("FRST") and "Transportation Company," \_\_\_\_\_ doing business at \_\_\_\_\_ a Provider of transportation services (hereinafter referred to as "Provider").

Pursuant to ORC Chapter 5101:3-24 for Enhanced Medicaid Transportation and PAM Section 11222.6 for Pregnancy Related Transportation, Title XX of the social security act, Chapter 5101 of the ORC, ORC Chapter 5101:47-26 for JOBS Transportation and additional ruled promulgated by the Ohio Department of Job & Family Services, the County Department of Job & Family Services is authorized to contract with public or private agencies for the purchase of Pregnancy Related, Enhanced Medicaid, Title XX, and JOBS Transportation Services. The following are the terms of the contract:

### 1. PURCHASE OF SERVICES

Subject to terms and conditions set forth in this contract, FRST agrees to purchase for, and the Provider agrees to furnish to eligible individuals (See Article 5), including private pay participants throughout the entire contract period (See Article 2), transportation services detailed in this agreement.

### 2. CONTRACT PERIOD

This contract will be effective from \_\_\_\_\_ or upon execution, whichever is later, through \_\_\_\_\_ inclusive, unless otherwise terminated. The contract may be renewed for not more than two one-year extensions.

### 3. CONTRACT SERVICES/AVAILABILITY OF FUNDS

Payment will be made for actual services delivered to authorized eligible recipients as determined by the FRST. The maximum amount paid to the Provider will depend on the total amount of services authorized by the eligible recipients. Payment for all services provided in accordance with the provisions of this contract are contingent upon the availability of Federal and State funds for Pregnancy Related Transportation, Children's Protective Services, Enhanced Medicaid, Title XX, JOBS Transportation, Veteran Transportation and private pay services authorized under this contract.

### 4. COST AND DELIVERY OF PURCHASED SERVICES

Subject to the limitations specified in Article 3, the amount to be paid for transportation services will be at the following rates:

\_\_\_\_\_ per passenger, per direct mile.

"No Shows" will not be paid.

No empty miles will be paid.

Passengers are all entitled to one assistant at no charge, in order to be compliant with the American with Disabilities Act. Therefore, Driver will not be compensated for the accompanying passenger.

**5. ELIGIBILITY FOR SERVICES**

Eligibility of individuals to receive purchased services shall be determined in accordance with the policies and procedures established by the Ohio Department of Job & Family Services in Chapter 5101:3-24 and 5101:47-26 of the administrative code and sections 11222:6 and 4604.3 of the Public Assistance Manual. FRS Transportation shall work in conjunction with Adams and Highland Counties Department of Job and Family Services to make eligibility determinations. FRST will determine eligibility for all other clients who are not financially supported by the Department of Job & Family Services.

**6. PAYMENT FOR PURCHASED SERVICES**

Provider shall, electronically submit their schedule on a daily basis by validating their schedule on their tablet at the end of their scheduled shift, covering purchased services rendered to eligible individuals. No paper schedules will be accepted as an invoice for payment. Ecolane software system will include actual expenditures, the number of people serviced, number of units, the number of hours and amount to be paid based on the negotiated contract. FRST will review the generated report before making payment within thirty days. The reported expenditures are subject to adjustment by FRST before such payment is made in order to verify completeness. Drivers are responsible for ensuring all information validated on the tablet is accurate and correct. Errors in payment to the Provider must be reported to the FRST office within 15 days after payment is made.

**7. EXPENSES RELATED TO PURCHASED SERVICES**

Provider shall be responsible to purchase and maintain all equipment required by FRST, including but not limited to: tablet devices, first aid kits, bio hazard kits, reflector triangles, fire extinguishers, magnetic signs and any other supplies required by FRST. Damage, use or the loss of these items will be the financial responsibility of the Provider to replace.

Providers will be responsible for pre-employment as well as renewal of required employment testing fees required by FRST, including but not limited to: Physicals, Drug Screens, Alcohol Screens, and Background Checks.

Providers will be responsible to pay for initial and recertification training expenses required by FRST, including but not limited to: First Aid/CPR Certifications and Fire Extinguisher Inspections.

**8. DRIVING HISTORY AND CRIMINAL BACKGROUND CHECKS**

9. Drivers must have a valid Ohio driver's license and have at least two years driving experience. Providers must give permission for FRST to conduct criminal background checks, and driving records checks.

10.

**11. SUBCONTRACTING**

No subcontracting shall be permitted without the express written approval of the FRST.

**12. INDEPENDENT CONTRACTORS**

Providers, agents, and employees of the Provider will act in performance of this contract in an independent capacity and not as officers, employees or agents of the State of Ohio or the FRST. Provider shall be and remain an independent contractor with respect to all service performed hereunder and agrees to and does hereby accept full and exclusive liability for the payment of any and all contributions or taxes for Social Security, unemployment insurance, or old age retirement benefits, pensions, or annuities now or hereafter imposed under any state or federal law which are measured by the wages, salaries, or other remuneration paid under this contract, and further agrees to indemnify and save harmless FRST from any such contributions or taxes or liability thereof.

**13. DUPLICATE BILLING**

Provider warrants that claims made to the FRST for payment for purchased services shall be for actual services rendered to eligible individuals and do not duplicate claims made by Provider to other sources of funds for the same services.

**14. FINANCIAL RECORDS**

The Provider shall maintain independent books, records, payroll, documents, accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract. Such records shall be subject, at all reasonable times for inspection, review or audit by duly authorized federal, state, Adams and Highland Counties Department of Job and Family Service, and FRST personnel. Such records shall also be subject to inspection by the individual or entity selected for the audit required by Article 12 of this contract.

**15. AVAILABILITY AND RETENTION OF RECORDS**

Provider shall maintain independent books, records, payroll, documents, accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of the resultant contract. Such records shall be subject at all reasonable times for inspection, review or audit by duly authorized Federal, State, Adams and Highland Counties Department of Job and Family Services, and FRST personnel.

Record Retention. Provider will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, subcontracts, leases, subcontracts, arrangements, other third-party Contracts of any type, and supporting materials related to those records.

Retention Period. Provider agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three years after the date of termination or expiration of this Contract, except in the event of

litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

Access to Records. Provider agrees to provide sufficient access to FRST, ODOT, and/or Federal Transit Administration (FTA) and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

Access to the Sites of Performance. Provider agrees to permit FRST, ODOT, and/or FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

**16. RESPONSIBILITY FOR AUDIT**

Provider agrees to, if required by the FRST on the basis of evidence of misuse of improper accounting of funds, or substantial errors in determination of eligibility for which the Provider is responsible, have conducted an independent audit of expenditures or determinations of eligibility or both and make copies of the audit available to the FRST.

**17. RESPONSIBILITY FOR AUDIT EXCEPTIONS**

Provider agrees to accept responsibility for receiving, replying to and /or complying with any audit exception by appropriate state or federal audit directly related to the provision of the Provider contract.

(a) The Provider agrees to pay to the FRST the full amount of the payment received on behalf of the individuals and families not covered for whom eligibility has not been established in accordance with policies and procedures established by Ohio Department of Job and Family Services or FRST.

(b) The Provider agrees to pay to the Adams and Highland Counties Department of Job and Family Services or the FRST the full amount of payment received for services not covered by the Provider's contract.

(c) The Provider agrees to pay the Adams and Highland Counties Department of Job and Family Services or the FRST the full amount of payment received for duplicate billing, erroneous billings, deceptive claims or falsification.

(d) The Provider is not required to repay overpayment caused by negotiated rate being in

excess of the Provider's cost unless that rate was based upon: Non-allowable costs; false or deceptive claims of estimated costs; projected expenditures for additional goods, services or personnel which the Provider did not secure; or the contract was negotiated on a cost reimbursable basis.

(e) As used in this section 'deceptive' means knowingly deceiving another or causing another to be deceived, by a fake or misleading representation, by withholding information, by preventing another from acquiring information or by any other act, conduct, or omission which creates confirms or perpetuates a fake impression in another, including a fake impression as to law, value, state of mind or other objective or subjective fact.

**18. SAFEGUARDING OF CLIENT**

Provider agrees that use or disclosure by any party of any information concerning eligible individuals for any purpose not directly related with the administration of the FRST or Provider's responsibilities, with respect to purchased services is prohibited except upon the written consent of the eligible individual or his responsible parent or guardian.

**19. CIVIL RIGHTS**

The FRST and Provider agree that as a condition of this contract, there shall be no discrimination against any client or any employee because of race, color, sex, religion, disability, national origin, disability, or any other factor as specified in Title VI of the Civil Rights Act of 1964, the Americans With Disabilities Act, and subsequent amendments. It is further agreed that Provider shall comply with all appropriate federal and state laws regarding such discrimination and the right to a method of appeal will be made available to all persons under this contract. Any agency found to be out of compliance with this paragraph may be subject to investigation by the Office of Civil Rights of the Department of Job and Family Services and termination of this contract.

The following Federal Civil Rights laws and regulations apply to this contract.

- A. Nondiscrimination on the Basis of Sex. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.
- B. Nondiscrimination on the Basis of Age. The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.
- C. Federal Protections for Individuals with Disabilities. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

The Provider shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

- D. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- E. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

## **20. EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this contract, the Provider agrees as follows:

- A. The Provider will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Provider will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Provider agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- B. The Provider will, in all solicitations or advertisements for employees placed by or on behalf of the Provider, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- C. The Provider will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has



inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Provider's legal duty to furnish information.

- D. The Provider will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by FRST, advising the labor union or workers' representative of the Provider's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. The Provider will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- F. The Provider will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by FRST and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- G. In the event of the Provider's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the Provider may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- H. The Provider will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Provider will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Provider becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Provider may request the United States to enter into such litigation to protect the interests of the United States.

## **21. FAIR HEARING**

FRST and Provider agree that the Provider is responsible for fulfilling responsibilities relative to appeals and state hearings in accordance with Chapter 5101:2-30 of the Administrative Code.

**22. INDEMNITY AND INSURANCE**

Provider shall indemnify and save harmless FRST, its trustees, officers and employees from and against all loss, costs, liability, damage and expense whether direct, consequential or incidental, for personal injury and for property damage, such loss, costs, liability, damage and expense arising out of, or resulting in whole or in part, directly or indirectly, from work or operations under the contract but not limited to the acts, errors, omissions and negligence of Contractor's employees and agents, except to the extent of liability imposed due to FRST's own negligence.

Provider shall, prior to performing services under this contract, submit proof of liability insurance coverage of no less than \$1,000,000 per occurrence and \$1,000,000 in aggregate. The policy shall remain in full force and effect during the entire licensing period.

The policy shall further provide that the insolvency or bankruptcy of the insured shall not release the insurance company from payment required to be made by the policy otherwise, but shall remain in full force and effect, and available to any person damaged the same as though the licensee was not insolvent or bankrupt.

The policy shall provide in addition to the aforesaid provisions, that no notice of any acts creating any liability there under will be required from FRST; that the policy shall not be cancelled before ten days written notice of intention to cancel has been given the FRST; and that the policy shall not be revocable, but shall remain in full force and effect until ten days have elapsed from the date of service of the written notice.

**23. MONITORING AND EVALUATION**

The FRST and Provider will monitor the manner in which the terms of the contract are being carried out. The form and scope of monitoring and evaluation will be determined at the discretion of the FRST.

**24. TERMINATION**

**Termination for Convenience**

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

**Termination for Default [Breach or Cause]**

If the Provider does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Provider fails to perform in the manner called for in the contract, or if the Provider fails to comply with any other provisions of the contract, FRST may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Provider is in default.

The Provider will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by FRST that the Provider had an excusable reason for not performing, such as a strike, fire, or flood, Provider which are not the fault of or are beyond the control of the Provider, FRST, after setting up a new delivery of performance schedule, may allow the Provider to continue work, or treat the termination as a Termination for Convenience.

### **Opportunity to Cure**

FRST, in its sole discretion may, in the case of a termination for breach or default, allow the Provider an appropriately short period of time in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions.

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

### **Waiver of Remedies for any Breach**

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

### **Termination for Convenience**

FRST, by written notice, may terminate this contract, in whole or in part, when it is in FRST's interest. If this contract is terminated, FRST shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

### **Termination for Default**

If the Provider 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 the Provider fails to comply with any other provisions of this contract, FRST may terminate this contract for default. FRST shall terminate by delivering to the Provider a Notice of Termination specifying the nature of default. The Provider will 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 the Provider has possession of FRST's goods, the Provider shall, upon direction of FRST, protect and preserve the goods until surrendered to FRST or its agent. The Provider and FRST shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

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

#### **Termination for Convenience or Default**

FRST may terminate this contract, or any portion of it, by serving a Notice of Termination on the Provider. The notice shall state whether the termination is for convenience of FRST or for the default of the Provider. If the termination is for default, the notice shall state the manner in which the Provider has failed to perform the requirements of the contract. The Provider shall account for any property in its possession paid for from funds received from FRST, or property supplied to the Provider by FRST. If the termination is for default, FRST may fix the fee, if the contract provides for a fee, to be paid the Provider in proportion to the value, if any, of work performed up to the time of termination. The Provider shall promptly submit its termination claim to FRST and the parties shall negotiate the termination settlement to be paid the Provider.

If the termination is for the convenience of FRST, the Provider shall be paid its contract closeout 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, FRST determines that the Provider has an excusable reason for not performing, FRST, after setting up a new work schedule, may allow the Contractor Provider to continue work, or treat the termination as a Termination for Convenience.

## **25. VIOLATION AND BREACH OF CONTRACT**

#### **Rights and Remedies of FRST**

FRST shall have the following rights in the event that FRST deems the Provider guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as FRST for and at the expense of the Provider, either directly or through other contractors; 2. The right to cancel this Contract as to any or all of the work yet to be performed; 3. The right to specific performance, an injunction or any other appropriate equitable remedy; and 4. The right to money damages.

### **Rights and Remedies of Provider**

Inasmuch as the Provider can be adequately compensated by money damages for any breach of this Contract, which may be committed by FRST, the Provider expressly agrees that no default, act or omission of FRST shall constitute a material breach of this Contract, entitling Provider to cancel or rescind the Contract (unless FRST directs Provider to do so) or to suspend or abandon performance.

### **Remedies**

Substantial failure of the Provider to complete the Project in accordance with the terms of this Contract will be a default of this contract. In the event of a default, FRST will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this contract by the Provider before FRST takes action contemplated herein, FRST will provide the Provider with sixty days written notice that FRST considers that such a breach has occurred and will provide the contractor a reasonable period of time to respond and to take necessary corrective action.

### **Disputes**

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by an authorized representative of FRST. This decision shall be final and conclusive unless within 10 days from the date of receipt of its copy, the Provider mails or otherwise furnishes a written appeal to FRST's authorized representative. In connection with any such appeal, the Provider shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of FRST's authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with FRST's direction or decisions made thereof.

### **Performance during Dispute**

Unless otherwise directed by FRST, Provider 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 its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

### **Remedies**

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

### **Rights and Remedies**

The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by FRST or Provider 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

## **26. AMENDMENT OF CONTRACT**

Oral changes are not permitted. No change in the contract shall be made unless the FRST gives prior written approval therefore. The Contractor shall be liable for all costs resulting from, and/or for satisfactorily correcting any change in the work not authorized by the FRST in writing. This contract may be amended on a form developed by FRST. A contract may not be amended after the lapse or termination of the contract. An amendment must be signed by the Provider and the authorized agency representative of the FRST prior to the effective date of the amendment. Reasons for the amendment may include, but are not limited to, the following:

- (a) The quality of the purchased services furnished by the Provider has been reduced.
- (b) The maximum unit rate has varied significantly from actual costs.
- (c) The Provider fails to meet the necessary state and federal licensing requirements.

## **27. DUTY TO INFORM**

If at any time during the performance of this contract, the Contractor becomes aware of actual or potential problems, fault defect in the project or any nonconformance with any contract document, Federal, State or local law, rule or regulation, the Contractor shall give immediate notice thereof to FRST's Director.

## **28. ASSIGNABILITY**

The terms and provisions of the Contract Documents shall be binding upon FRST and the Provider and their respective partners, successors, heirs, executors, administrators, assigns and legal representatives. The rights and obligations of the Provider under the Contract may not be transferred, assigned, sublet, mortgaged, pledged or otherwise disposed of or encumbered in any way. The Provider may subcontract a portion of its obligations to other firms or parties but only after having obtained the written approval by FRST of the

subcontractor, which approval shall not be unreasonably withheld. FRST may assign its rights and obligations under the Contract to any successor to the rights and functions of FRST or to any governmental agency to the extent required by applicable laws and governmental regulations or to the extent FRST deems necessary or advisable under the circumstances.

**29. ACCESSABILITY OF PROGRAM TO OLDER ADULTS AND PEOPLE WITH DISABILITIES**

The Provider agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The Provider also agrees to comply with all applicable requirements of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with 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 persons with disabilities, including any subsequent amendments to that Act, and with 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 persons with disabilities, including any subsequent amendments to that Act. In addition, the Provider agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

**27. VEHICLE MAINTENANCE**

Vehicles used for transporting clients must be in a good state of repair and inspected annually, and subject to the approval of FRST. Vehicles, both interiors and exteriors, must be kept clean at all times and should not show a lack of daily maintenance.

Vehicles must be equipped for each passenger to wear a seatbelt and be inspected annually by an ASE certified garage of FRST's choice. The cost of the inspection is the responsibility of the contractor. FRST will supply the check list for the inspection.

28. Drivers must perform pre-trip checks on a daily basis using a form provided by FRST. Completed forms must be signed and turned into the staff at FRST.

29. All maintenance records of vehicles must be submitted to the staff of FRST.

30.

31. Individual vehicle owner's manual maintenance schedule should be followed however; the following is the minimum maintenance that must be performed on vehicles used to transport clients. Documentation of maintenance must be submitted to FRST:

32.

33. Maintenance schedule:

34. Every 3,000 miles (A):

35. Thoroughly check over vehicle. Complete any needed repairs.

36. Check all tire PSI and adjust if needed.

37. Change oil. (5,000 miles if using synthetic oil for cars with over 75,000)
- 38.
39. Every 6,000 miles, Complete A, plus:
40. Rotate Tires
41. Change oil
- 42.
43. Every 25,000 miles, Complete A & B, plus:
44. Pull all wheels and inspect. Repack Bearings.
45. Inspect brakes and hardware. Replace what is needed.
46. Change all fluids and filters – except the transmission.
- 47.
48. Every 50,000 miles, Complete A, B & C, plus:
49. Change transmission fluids & filters.

50.

**51. MISCELLANEOUS PROGRAM RULES**

1. Provider and employees shall refrain from smoking in vehicles used for transportation.
2. Provider and employees shall refrain from using foul language during transports.
3. Provider and employees must have a cell phone with a local number for communicating with the office and in case of an emergency during transports.
4. Prior approval must be obtained from FRST for non-client transports during contract transports.
5. Provider and employees will make printed information available to clients regarding transportation services. Further, drivers will collect necessary documents, including Medicaid Verification Forms, Donations, and Fees from clients and turn into the transportation office no less than twice per week. At times, literature from partner agencies may also be requested to be placed in the vehicle or distributed to clients.
6. FRST is a Door-to-Door agency, meaning Providers and employees are required to provide passenger assistance as needed, including opening vehicle doors and assisting with and securing mobility devices.
7. Any and all complaints regarding FRST issues need to be in writing and given to the FRST Director within two business days of event.

52.

**53. ETHICS**

The Provider shall abide by the FRST rules, per the Area Agency on Aging Region 9, attached hereto as Exhibit A.

**54. TRAINING**

Providers and employees must complete DRIVE training six-months prior, or within one-year of entering into this contract. A refresher course must be taken at least every three years.

Defensive driving must be taken within the year prior, or within three months after entering into this contract. A refresher course must be taken at least every three years.



**55. HIPAA**

If this Contract involves services, activities or products subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Provider covenants that it will appropriately safeguard Protected Health Information (defined in 45 CFR 160.103), and agrees that it is subject to, and shall comply with, the provisions of 45 CFR 164 Subpart E regarding use and disclosure of Protected Health Information.

**56. LAWS OF OHIO**

The rights and duties of the parties hereto shall be determined by the laws of the State of Ohio, and to that end the contract shall be construed and considered as a contract made and to be performed in the Counties of Adams and Highland, Ohio.

**57. STATE INDUSTRIAL COMPENSATION**

Provider shall comply with the state law known as the Workers' Compensation Act, Chapter 4123, Ohio Revised Code as applicable, and shall pay into the State Insurance Fund the necessary premiums required by that Act to cover all employees furnishing the services purchased under the terms of this contract and under the control of Contractor, and shall relieve FRST from any costs due to accidents or other liabilities mentioned in said Act. If Contractor is a self-insurer under the Ohio Workers' Compensation Act, and duly authorized as such by the Industrial Commission of Ohio, it shall tender to FRST proof of such status. Contractor shall, from time to time upon request, tender to FRST a certificate evidencing its compliance with the Workers' Compensation Act.

**58. FEDERAL CHANGES**

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

**59. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**

The provisions within include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in the current FTA Circular 4220 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 Contract. The Provider shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

**60. NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

FRST and Provider acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is

not a party to this Contract and shall not be subject to any obligations or liabilities to FRST, Provider or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Provider agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**61. PROCUREMENT OF RECOVERED MATERIALS**

In the performance of this contract, the Provider shall make maximum use of products containing recovered materials that are EPA designated items unless the product cannot be acquired—

- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
- ii. Meeting contract performance requirements; or
- iii. At a reasonable price.

Information about this requirement, along with the list of EPA designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurementguidelinecpvgprogram>.

**62. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

The Provider acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

**63. PROMPT PAYMENT**

The Provider 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 Provider's receipt of payment for that work. In addition, the Provider is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

The Provider must promptly notify FRST, 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 FRST.

**64. PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS**

The Provider agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

Special Warranty. When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance

under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.

Special Arrangements. The conditions of 49 U.S.C. § 5333(b) do not apply to Providers providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to 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 make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

## **65. SAFE OPERATION OF MOTOR VEHICLES**

### **Seat Belt Use**

The Provider is encouraged to adopt and promote 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. The terms “company owned” and “company leased” refer to vehicles owned or leased either by the Contractor, Provider or FRST.

### **Distracted Driving**

The Provider 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 the Provider owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

## **66. SUBSTANCE ABUSE REQUIREMENTS**

The Provider agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, ODOT, or FRST, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with part 655 and to submit the Management Information System (MIS) reports to FRST.

Independent Contractors agree to participate in FRST’s drug and alcohol testing program that complies with 49 C.F.R. part 655.

## **67. SCHOOL BUS OPERATIONS**

The Provider agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
2. FTA regulations, “School Bus Operations,” 49 C.F.R. part 605

3. Any other Federal School Bus regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

If Provider violates this School Bus Agreement, ODOT may:

1. Bar the Provider from receiving Federal assistance for public transportation; or
2. Require the contractor to take such remedial measures as FTA considers appropriate.

When operating exclusive school bus service under an allowable exemption, the Provider may not use federally funded equipment, vehicles, or facilities.

**68. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

**Clean Air Act**

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to FRST and understands and agrees that FRST will, in turn, report each violation as required to assure notification to FRST, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

**Federal Water Pollution Control Act**

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to FRST and understands and agrees that FRST will, in turn, report each violation as required to assure notification to FRST, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

**69. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

Applicability: This requirement applies to all FTA grant and cooperative agreement programs.

- A. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.
- B. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- C. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- D. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

Compliance with the Contract Work Hours and Safety Standards Act

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 forty 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 forty 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 the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), 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 forty 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. FRST 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 any moneys payable on account of work performed by the 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 and 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. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

## **70. DEBARMENT AND SUSPENSION**

Applicability: This requirement applies to all FTA grant and cooperative agreement programs for a contract in the amount of at least \$25,000.

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) The accompanying certification is a material representation of fact relied upon by the subrecipient. If it is later determined that the Provider did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to FRST and subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The Provider agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of this contract. The Provider further agrees to include a provision requiring such compliance in its lower tier covered transactions.

## **71. ENERGY CONSERVATION**

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

**SIGNATURE PAGE**

\_\_\_\_\_  
FRST Transportation Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Independent Provider

\_\_\_\_\_  
Date

**FRS Transportation  
Code of Ethics**

**EXHIBIT A**

CODE OF ETHICS WHICH DECLARES THAT THE DRIVER AND FOR INDIRECT PROVIDERS SHALL NOT:

- (a) USE THE PARTICIPANT'S VEHICLE;
- (b) CONSUME THE PARTICIPANT'S FOOD AND DRINK WITHOUT THE PARTICIPANT'S CONSENT OR THE PARTICIPANT OFFERING IT;
- (c) USE THE PARTICIPANT'S TELEPHONE FOR PERSONAL CALLS;
- (d) TAKE THE CONSUMER TO THE PROVIDER'S PLACE OF BUSINESS;
- (e) DISCUSS PERSONAL PROBLEMS OR RELIGIOUS OR POLITICAL BELIEFS WITH THE PARTICIPANT;
- (f) ACCEPT GIFTS OR TIPS FROM THE PARTICIPANT;
- (g) BRING FRIENDS OR RELATIVES OF THE CONTRACTOR'S TO THE PARTICIPANT'S HOME;
- (h) CONSUME ALCOHOLIC BEVERAGES OR USE MEDICINE OR DRUGS FOR ANY PURPOSE OTHER THAN MEDICAL WHILE IN THE PARTICIPANT'S HOME OR PRIOR TO THE DELIVERY OF SERVICES;
- (i) SMOKE IN THE PARTICIPANT'S HOME, WITH OR WITHOUT THE PARTICIPANT'S PERMISSION;
- (j) BREACH THE PARTICIPANT'S PRIVACY OR THE CONFIDENTIALITY OF PARTICIPANT RECORDS'AND
- (k) BRING OR EAT PERSONAL FOOD IN THE PARTICIPANT'S HOME WITHOUT THE PARTICIPANT'S CONSENT
- (l) ENGAGE IN SEXUAL CONDUCT, OR IN CONDUCT THAT A REASONABLE PERSON WOULD INTERPRET AS SEXUAL IN NATURE, EVEN IF THE CONDUCT IS CONSENSUAL;
- (m) ENGAGED IN ANY ACTIVITY THAT MAY DISTRACT THE PROVIDER FROM SERVICE DELIVERY;
- (n) ENGAGED IN BEHAVIOR THAT CAUSES, OR MAY CAUSE, PHYSICAL, VERBAL, MENTAL OR EMOTIONAL DISTRESS OR ABUSE TO THE CONSUMER;
- (o) ENGAGE IN BEHAVIOR THAT A REASONABLE PERSON WOULD INTERPRET AS INAPPROPRIATE INVOLVEMENT IN THE CONSUMER'S PERSONAL RELATIONSHIPS;



- (p) BE DESIGNATED TO MAKE DECISIONS FOR THE CONSUMER IN ANY CAPACITY INVOLVING A DECLARATION FOR MENTAL HEALTH TREATMENT, POWER OF ATTORNEY, DURABLE POWER OF ATTORNEY OR GUARDIANSHIP;
- (q) SELLING OR PURCHASING FROM THE CONSUMER PRODUCTS OR PERSONAL ITEMS, UNLESS THE PROVIDER IS THE CONSUMER'S FAMILY MEMBER WHO DOES SO ONLY WHEN NOT PROVIDING A SERVICE.
- (r) ENGAGE IN BEHAVIOR THAT CONSTITUTES A CONFLICT OF INTEREST OR TAKES ADVANTAGE OF OR MANIPULATES ODA-CERTIFIED SERVICES RESULTING IN AN UNINTENDED ADVANTAGE FOR PERSONAL GAIN THAT HAS DETRIMENTAL RESULTS TO THE CONSUMER, THE CONSUMER'S FAMILY OR CAREGIVERS, OR ANOTHER PROVIDER.

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Driver/Company Printed Name

Driver/Company Signature

Date

\_\_\_\_\_  
Witness Printed Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date