

**Project:** Contract Drivers for TART Extended Service

**Administering Agency:** Placer County Department of Public Works

**Contract No.** \_\_\_\_\_

**Contract Description:** Provision of Public Transit Drivers for TART Extended Service  
**CONTRACTOR SERVICES AGREEMENT**

**THIS AGREEMENT** is made at Auburn, California, as of \_\_\_\_\_, 20\_\_, by and between the County of Placer, ("County"), and My Ride to Work. ("Contractor"), who agree as follows:

- 1. Services.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide the services described in Exhibit A and **RFP No. 20138**, and Contractor's response to said document. Contractor shall provide said services at the time, place, and in the manner specified in Exhibit A.
- 2. Payment.** County shall pay Contractor for services rendered pursuant to this Agreement at the time and in the amount set forth in Exhibit B. The payment specified in Exhibit B shall be the only payment made to Contractor for services rendered pursuant to this Agreement. Contractor shall submit all billings for said services to County in the manner specified in Exhibit B; or, if no manner be specified in Exhibit B, then according to the usual and customary procedures which Contractor uses for billing clients similar to County. **The amount of the contract shall not exceed Three Million Six Hundred Seventeen Thousand Six Hundred Dollars (\$3,617,600) through October of 2026.**
- 3. Facilities, Equipment and Other Materials, and Obligations of County.** Except as set forth in Exhibit C, Contractor shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement. County shall furnish Contractor only those facilities, equipment, and other materials, and shall perform those obligations listed in Exhibit C according to the terms and conditions set forth in Exhibit C.
- 4. Exhibits.** All exhibits referred to herein will be attached hereto and by this reference incorporated herein.
- 5. Time for Performance.** Time is of the essence, and, subject to County's compliance with Exhibit C, failure of Contractor to perform any services within the time limits set forth in Exhibit A shall constitute material breach of this contract.
- 6. Independent Contractor.** At all times during the term of this Agreement, Contractor shall be an independent Contractor and shall not be an employee of the County. County shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement. County shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement.

**7. Licenses, Permits, Etc.** Contractor represents and warrants to County that it has all licenses, permits, qualifications, and approvals of whatsoever nature, which are legally required for Contractor to practice its profession. Contractor represents and warrants to County that Contractor shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for Contractor to practice its profession at the time the services are performed.

**8. Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of Contractor's obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

**9. HOLD HARMLESS AND INDEMNIFICATION AGREEMENT:** COUNTY agrees to indemnify and hold harmless CONTRACTOR and CONTRACTOR'S employees or agents from and against any damages including costs and attorney's fees arising out of negligent or intentional acts or omissions of COUNTY, its employees or agents.

CONTRACTOR agrees to indemnify and hold harmless COUNTY, its employees, agents and elective and appointive boards from and against any damages including costs and attorney's fees arising out of negligent or intentional acts or omissions of CONTRACTOR, its employees or agents.

This indemnification shall extend to claims, losses, damages, injury, and liability for injuries occurring after completion of CONTRACTOR'S services, as well as during the progress of rendering such services. Acceptance of insurance required by this Agreement does not relieve CONTRACTOR from liability under this indemnification clause. This indemnification clause shall apply to all damages or claims for damages suffered by CONTRACTOR'S operations regardless if any insurance is applicable or not.

Contractor's indemnification obligations shall not extent to acts or omissions of Contractor's employees or agents while operating or using any County owned vehicle.

**10. Accidents, Incidents and Damage**

All first property damage that occur with a vehicle being operated by the CONTRACTOR's employees whose performance cannot be completely discounted as the cause of the accident or incident shall be deemed the responsibility of CONTRACTOR up to COUNTY's physical damage insurance deductible.

**11. Insurance.** It is agreed that the COUNTY shall maintain at all times during the performance of this Agreement insurance coverage or self-insurance in the amounts of not less than One Million Dollars (\$1,000,000) to cover all of its operations, including, but not limited to not less than One Million Dollars (\$1,000,000) general liability, One Million Dollars (\$1,000,000) automobile Liability and One Million Dollars (\$1,000,000) workers' compensation.

CONTRACTOR shall file with COUNTY concurrently herewith a Certificate of Insurance, in companies acceptable to COUNTY, with a Best's Rating of no less than A-:VII showing.

**WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:**

Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to CONTRACTOR'S employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Worker's Compensation policy shall be endorsed with the following specific language:

Cancellation Notice - "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer".

Waiver of Subrogation - The workers' compensation policy shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the County, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this agreement by the CONTRACTOR.

CONTRACTOR shall require all SUBCONTRACTORS to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation shall be filed forthwith with the County upon demand.

GENERAL LIABILITY INSURANCE:

A. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of CONTRACTOR, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

(1) Contractual liability insuring the obligations assumed by CONTRACTOR in this Agreement.

B. One of the following forms is required:

- (1) Comprehensive General Liability;
- (2) Commercial General Liability (Occurrence); or
- (3) Commercial General Liability (Claims Made).

C. If CONTRACTOR carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:

- Five million dollars (\$5,000,000) each occurrence
- Five million dollars (\$5,000,000) aggregate

D. If CONTRACTOR carries a Commercial General Liability (Occurrence) policy:

- (1) The limits of liability shall not be less than:
  - Five million dollars (\$5,000,000) each occurrence (combined single limit for bodily injury and property damage)
  - Five million dollars (\$5,000,000) for Products-Completed Operations

→Five million dollars (\$5,000,000) General Aggregate

- (2) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be five million dollars (\$5,000,000).

E. Special Claims Made Policy Form Provisions:

CONTRACTOR shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of COUNTY, which consent, if given, shall be subject to the following conditions:

- (1) The limits of liability shall not be less than:

→Five million dollars (\$5,000,000) each occurrence (combined single limit for bodily injury and property damage)  
→Five million dollars (\$5,000,000) aggregate for Products Completed Operations  
→Five million dollars (\$5,000,000) General Aggregate

- (2) The insurance coverage provided by CONTRACTOR shall contain language providing coverage up to one (1) year following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

Conformity of Coverages - If more than one policy is used to meet the required coverages, such as a separate umbrella policy, such policies shall be consistent with all other applicable policies used to meet these minimum requirements. For example, all policies shall be Occurrence Liability policies or all shall be Claims Made Liability policies, if approved by the County as noted above. In no cases shall the types of policies be different.

ENDORSEMENTS:

Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

- A. "The County of Placer, its officers, agents, employees, and volunteers are to be covered as an additional insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."
- B. "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer"

AUTOMOBILE LIABILITY INSURANCE:

Automobile Liability insurance covering bodily injury and property damage in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence.

Covered vehicles shall include owned, non-owned, and hired automobiles/trucks, excluding Placer County vehicles.

ADDITIONAL REQUIREMENTS:

Premium Payments - The insurance companies shall have no recourse against the COUNTY and funding agencies, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.

Policy Deductibles - The CONTRACTOR shall be responsible for all deductibles in all of the CONTRACTOR's insurance policies. The maximum amount of allowable deductible for insurance coverage required herein shall be \$25,000.

CONTRACTOR's Obligations - CONTRACTOR's indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this agreement.

Verification of Coverage - CONTRACTOR shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Material Breach - Failure of the CONTRACTOR to maintain the insurance required by this agreement, or to comply with any of the requirements of this section, shall constitute a material breach of the entire agreement.

- 12.** **Notice of Cancellation.** All insurance policies shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior notice of cancellation for non-payment of premium to the County of Placer.
- 13.** **Contractor Not Agent.** Except as County may specify in writing Contractor shall have no authority, express or implied, to act on behalf of County in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied pursuant to this Agreement to Bind County to any obligation whatsoever.
- 14.** **Assignment Prohibited.** Contractor may assign its rights and obligations under this Agreement only upon the prior written approval of County, said approval to be in the sole discretion of County.
- 15.** **Personnel.**
  - A. Contractor shall assign only competent personnel to perform services pursuant to this Agreement. In the event that County, in its sole discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by Contractor to perform services pursuant to this Agreement, Contractor shall remove any such person immediately upon receiving notice from County of the desire of County for removal of such person or persons.
- 16.** **Standard of Performance.** Contractor shall perform all services required pursuant to this agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession. All products of whatsoever nature which Contractor delivers to County pursuant to this Agreement shall be prepared in a substantial first class and workmanlike manner and conform to the standards or quality normally observed by a person practicing in Contractors profession.

**17. Termination.**

- A. County shall have the right to terminate this Agreement at any time by giving notice in writing of such termination to Contractor. In the event County shall give notice of termination, Contractor shall immediately cease rendering service upon receipt of such written notice, pursuant to this Agreement. In the event County shall terminate this Agreement:
- 1) Contractor shall deliver copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, Photostatting, photographing, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof. This shall exclude Contractor's internal accounting and related records.
  - 2) County shall have full ownership and control of all such writings delivered by Contractor pursuant to this Agreement.
  - 3) County shall pay Contractor the fees provided in this Agreement (including Exhibit B) for all services rendered by Contractor to the date of termination pursuant to this Agreement not to exceed the amount documented by Contractor and approved by County as work accomplished to date; provided, however, that in no event shall any payment hereunder exceed the amount of the agreement specified in Exhibit B, and further provided, however, County shall not in any manner be liable for lost profits which might have been made by Contractor had Contractor completed the services required by this Agreement. The foregoing is cumulative and does not affect any right or remedy, which County may have in law or equity.
  - 4) The County, at its sole discretion, may terminate this Agreement at any time if the TART service is eliminated or materially reduced due to a lack of funds. Such termination shall be effective upon thirty (30) day written notice and the payment of all consideration earned by Contractor through the effective date of termination
- B. Contractor may terminate its services under this Agreement without penalty upon ninety (90) working days' advance written notice to the County.

**18. Non-Discrimination.** Contractor shall not discriminate in its employment practices because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex in contravention of the California Fair Employment and Housing Act, Government Code section 12900 et seq.

**19. Records.** Contractor shall maintain, at all times, complete detailed records with regard to work performed under this agreement in a form acceptable to County, and County shall have the right to inspect such records during normal business hours. Notwithstanding any other terms of this agreement, no payments shall be made to Contractor until County is satisfied that work of such value has been rendered pursuant to this agreement. However, County shall not unreasonably

withhold payment and, if a dispute exists, the withheld payment shall be proportional only to the item in dispute.

- 20. Ownership of Information.** All work sheets, reports, and related data shall become the property of County, and Contractor agrees to deliver reproducible copies of such documents to County on completion of the services hereunder. The County agrees to indemnify and hold Contractor harmless from any claim arising out of reuse of the information for other than this project.
- 21. Waiver.** One or more waivers by one party of any major or minor breach or default of any provision, term, condition, or covenant of this Agreement shall not operate as a waiver of any subsequent breach or default by the other party.
- 22. Conflict of Interest.** Contractor certifies that no official or employee of the County, nor any business entity in which an official of the County has an interest, has been employed or retained to solicit or aid in the procuring of this agreement. In addition, Contractor agrees that no such person will be employed in the performance of this agreement without immediately notifying the County.
- 23. Entirety of Agreement.** This Agreement contains the entire agreement of County and Contractor with respect to the subject matter hereof, and no other agreement, statement, or promise made by any party, or to any employee, officer or agent of any party, which is not contained in this Agreement, shall be binding or valid.
- 24. Alteration.** No waiver, alteration, modification, or termination of this Agreement shall be valid unless made in writing and signed by all parties, except as expressly provided in Section 15, Termination.
- 25. Governing Law.** This Agreement is executed and intended to be performed in the State of California, and the laws of that State shall govern its interpretation and effect. Any legal proceedings on this agreement shall be brought under the jurisdiction of the Superior Court of the County of Placer, State of California. Each party waives any Federal court removal and/or original jurisdiction rights it may have.
- 26. Dispute Resolution.** In the event a dispute, claim or controversy shall arise between the parties to this contract, the parties will first attempt to negotiate in good faith to resolve the dispute between the parties. If the dispute is not resolved between the parties, the parties agree to participate in at least four hours of mediation before a neutral mediator jointly selected by the parties prior to instituting any legal action. The cost of the mediation will be shared on an equal basis between the parties. The mediation shall take place in the County of Placer. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by the parties, their agents, employees, experts and attorneys, and by the mediator are confidential, privileged and inadmissible for any purpose, including impeachment, in any arbitration, lawsuit or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in mediation. Either party may commence mediation by providing the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. The parties will cooperate with one another in selecting a mediator and scheduling the mediation proceedings. The parties agree that they will participate in the mediation in good faith. All applicable statutes of limitation and defenses based on the passage of time shall not be tolled by the requirement that any dispute, claim or controversy related to this contract be submitted to mediation.

**27. Terms of Agreement** Initial Term: The initial term of this Agreement shall be from execution of this agreement, expected November 1 of 2021 through and including October 31, 2026.

**28. Notification**. Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the mail, postage prepaid, and addressed to the parties as follows:

AGENCY: Placer County Department of Public Works, Transit Division  
Attn: Jaime Wright  
3091 County Center Drive, Suite 220  
Auburn, CA 95604-7096 (Project Inquiries)  
Phone: (530) 745-3530 Fax: (530) 745-3152

CONTRACTOR : My Ride to Work  
Attn: Geoff Donahue  
1416 Gentry Way  
Reno, NV 89502  
Phone (775) 842-0542

Any notice so delivered personally shall be deemed to be received on the date of delivery, and any notice mailed shall be deemed to be received five (5) days after the date on which it was mailed.

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Executed as of the day first above stated:

**COUNTY OF PLACER**



By:

Date:

Printed Name/Title:

Approved As to Form – County Counsel:

By:

\_\_\_\_\_

Date:

**CONTRACTOR**

By:

Date:

Name: \_\_\_\_\_

\* Title:

By:

Date:

Name: \_\_\_\_\_

\* Title:

***\*If Contractor is a corporation, this agreement must be signed by two corporate officers; one of which must be the secretary of the corporation, and the other may be either the President or Vice President, unless an authenticated corporate resolution is attached delegating authority to a single officer to bind the corporation (California Corporations Code Sec. 313).***

**Exhibits**

- A. Scope of Services and Route Maps & Truckee Maps
- B. Payment for Services Rendered
- C. Facilities, Equipment and Other Obligations of County
- D. FTA Required Guidelines

**Exhibit A**  
**Contract Drivers for TART Expanded Hours of Service Program**  
**Scope of Services**

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**1.0 SCOPE OF SERVICES**

1.1. Tahoe Truckee Area Regional Transit (TART), which is operated by the Placer County Department of Public Works in partnership with the Town of Truckee, who operates the Truckee Local Route as well as night service connections to local resorts on Hwy. 89 and 267. While the two systems are branded as a single service, they are operated and managed independently of each other. Placer County TART operates the TART service continually in North Lake Tahoe with connections to Truckee. This contract is to provide professional qualified drivers to supplement Placer County TART's permanent and extra help employees to drive routes for TART's a expanded hours of service. ..

1.2. **Services Required** – The service described below is the entire service, including that to be operated directly by TART personnel under usual course of business. The current TART service area is displayed on **Attachment 1**.

1.2.1. The Placer County TART bus service is operated with 10 vehicles in maximum service from 6:00 a.m. to 7:00 p.m. and 4 vehicles between 7:00 p.m. and 2:00 a.m. during peak summer and winter months. During the non-peak fall and spring seasons the Placer County TART bus service is operated with 8 vehicles in maximum service from 6:00 a.m. to 7:00 p.m. and 4 vehicles between 7:00 p.m. and 10:00 p.m. All vehicles are transit style buses 35' to 40' in length and powered by either CNG or diesel engines. The buses are Orion V and Gillig Phantoms.

1.2.2. Each contract driver will be expected to work a minimum of 40 hours per week during peak season and a maximum of 20 hours per week during non-peak. It is expected the contract drivers will work approximately 3,000 to 5,000 hours during the peak seasons and 500 to 3,000 hours during the non-peak seasons.

1.2.3. Breakdown of Estimated Hours and Drivers by Season for expanded hours of service above that provided by County employed TART bus drivers.

	Winter			Summer			Off Season			Total Hours
	Daily Drivers	Daily Hours	Extended Hrs	Daily Drivers	Daily Hours	Extended Hrs	Daily Drivers	Daily Hours	Extended Hrs	
TART Year-Round Fixed Route Service	5	40	4,640	5	40	2,720	2	20	3620	10,980
<b>TOTAL</b>	<b>5</b>	<b>40</b>	<b>4,640</b>	<b>5</b>	<b>40</b>	<b>2,720</b>	<b>2</b>	<b>20</b>	<b>3620</b>	<b>10,980</b>

- 1.2.4. The Contractor shall provide qualified transit drivers to Placer County for use in the TART peak and non-peak seasons in order to sustain expanded hours of service. The Contractor shall provide required classroom and behind the wheel training, licensing, DOT/FTA compliant drug and alcohol testing program, and cooperate with TART staff to schedule the drivers to report for shifts at the TART facility.
- 1.2.5. The Contractor will provide management and supervision of the contract drivers and Placer County will provide daily oversight including dispatch, route,, vehicle, and fuel training, uniforms and all supplies necessary to work the required shifts. The Contractor will not be required to provide on-site supervision but must be available to respond to the TART facility in the event the Contractor needs to provide direct supervision or management of contract drivers.
- 1.2.6. The Contractor shall adhere to all current and future Federal, State and local laws and regulations applicable to the services described in this agreement, and is solely responsible for all employment related compliance in regards to the Affordable Care Act (ACA) and AB 1522 – Healthy Workplaces, Healthy Families Act of 2014 (Paid Sick Leave Law).
- 1.2.7. Listed below are the requirements for this contract:
  - A. **Number of Drivers:** 1 to 5 per day for Placer County TART service.
  - B. **Dates:** Contract commencement date shall be the date of contract award by the Board of Supervisors (tentatively set November 9, 2021). Service would start on November 12, 2021, for the TART service. Training would need to occur an appropriate amount of time preceding the start-up of service and will consist of approximately 16 hours.
  - C. **Peak Seasons (Approx.):**
    - Winter Peak Season: December 10 – April 5
    - Spring Non-Peak Season: April 6 – June 25
    - Summer Peak Season: June 26 – September 4
    - Fall Non-Peak Season: September 5- December 9
  - D. **Operating Days:** 7 days per week
  - E. **Operating Hours:** Peak Season – 5:00 am to 2:00am Non-Peak Season – 5:00 am to 10:00 pm
  - F. **Shift Days per week:** 7 days per week

- G. Shift Assignments:** Shifts not filled by TART permanent and extra help employees shall be filled by the Contractor. Shift availability will be provided to the Contractor one week in advance and Contractor will assign available shifts to contract drivers.

- I. **Reporting Location:** Tahoe Truckee Area Regional Transit Facility  
870 Cabin Creek Road  
Truckee, CA  
3 miles south of I-80 off of Highway 89
- J. **Driver Transportation:** Contractor or driver shall be responsible for transportation to and from the TART office.
- K. **Service Modification:** County reserves the right to modify the service area or shift times of this contract to best serve TART service requirements.

### 1.3. General Requirements

- 1.3.1. **Driver Qualifications** Driver Qualifications are based on State of California Department of Motor Vehicle and California Vehicle Code requirements. Prior to driving in passenger service under this contract, driver shall possess at all times a valid Class B driver's license with air brake and passenger endorsements allowing passenger transport in a Class B vehicle carrying more than 15 passengers. The driver must possess documented training sufficient to hold or obtain a Verification of Transit Training (VTT), School Bus, or Student Pupil Activity Bus (SPAB) certificate. The Contractor shall provide a DMV printout for each driver identifying the proper endorsements. The Contractor shall bear all costs associated with acquiring the DMV report(s).
- 1.3.2. Drivers must be able to operate and perform routine tasks typical of bus operations on a public transit vehicle in passenger service, operate a public transit vehicle safely and legally, and practice principles of good customer service.
- 1.3.3. Each driver provided by the Contractor will be required to pass a basic skills driving test administered by the County's certified trainers before being approved to operate in service. The test will include but is not limited to the following elements:
  - Pre and post trip vehicle inspection
  - Basic vehicle operations
  - Basic driving skills; and
  - On route drive test
- 1.3.4. **Drug & Alcohol Testing** – The Contractor shall establish and implement a drug and alcohol testing program that complies with 49 CFR 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, the State Oversight Agency of the State of California, or County, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 655 and review the testing process. The Contractor shall certify as soon as possible upon award of the resulting contract. After the contract award date and

initial certification, the Contractor shall certify annually its compliance with Part 655 before March 15 of each contract year and shall submit the Management Information System (MIS) reports before March 15 of each contract year to Placer County Department of Public Works, c/o Senior Transportation Systems Supervisor, 3091 County Center Drive, Auburn, CA 95603. To certify compliance the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

- 1.3.5. **Operating of County Equipment** – Contractor shall operate transit buses and other County supplied vehicles and equipment in accordance with the provisions of this agreement, the operating procedures set forth by County personnel responsible for supervision of the TART operation, and all applicable federal, state, and local laws.
- 1.3.6. **Pickup and Discharge of Passengers** – Unless otherwise directed by County in writing, passengers shall be picked up and discharged only at approved bus stops along prescribed route and schedule.
- 1.3.7. **Receiving Fares and Counting Passengers** – Drivers may, on a random basis, be required to record passenger boarding by location in accordance with procedures provided by TART supervisors. Drivers may be required to operate GFI Genfare automated fareboxes.
- 1.3.8. **Pre/Post-Trip Inspections and Defect Reports** – Drivers are required to perform pre/post-trip inspections of each revenue vehicle prior to and at the conclusion of daily operation. Pre/post-trip inspections shall be performed in accordance with the procedures prescribed by TART supervisors. Drivers will be responsible for reporting, in writing, any defects to both revenue and non-revenue vehicles provided by County. All contract drivers will be expected to use Zonar for pre-trip inspections.
- 1.3.9. **Incident Reports** – Drivers will be responsible for completing incident reports for vehicle and non-vehicle incidents, accidents, and collisions during performance of this contract. Incident reporting will be completed on a form prescribed by the County and provided by TART supervisors.
- 1.3.10. **Driver Performance** – Failure of Contractor to perform duties in a manner required by this Contract may be cause for the Contractor to remove a driver from service if driver performance contributes to the failure of Contractor to perform duties in the Contract
- 1.3.11. **Vehicle Cleanliness** – Drivers shall maintain the cleanliness of the vehicle interior, passenger windows, windshields and mirrors during operation. Drivers may be assigned to wash vehicles during the course of their shifts.

- 1.3.12. **Fueling** – Drivers will be required to fuel buses as part of their shift. Refueling will take place at the County diesel and CNG fuel dispensers located at the TART Facility, 870 Cabin Creek Road, Truckee, CA for the duration of the contract. For Town of Truckee buses, fueling will occur at the Truckee Corporation Yard at 10969 Stevens Lane, Truckee, CA.
- 1.3.13. **Reimbursement for Lodging Costs** – All reimbursements for lodging costs must be preapproved by the County’s primary point of contact for the resulting contract or designee. Contractor will be reimbursed lodging costs at a rate not to exceed \$110 per employee per day. Lodging costs will be reimbursed only for instances when TART requires more than five (5) drivers per day and the shifts are worked by Contractor drivers that are required to commute from outside of the Reno-North Lake Tahoe-Truckee region. Contractor shall make all reasonable efforts to employ drivers from the Reno-North Lake Tahoe-Truckee region for the purpose of minimizing lodging costs. Placer County will not be responsible for any additional per diem charges or costs
- 1.3.14. **Invoices/Reporting** – Invoices shall be submitted monthly. Invoices shall identify total charge, time period covered, driver name, driver shift hours and shift worked each day, number of hours worked by week up to 40 hours, number of hours worked by week in excess of 40 hours (if applicable), and total hours for both categories. Invoices will identify charges separately for the Lead Driver identifying only the time worked as a lead driver, which will not include time working duties of a bus driver. The County will make payment within 30 days of receipt of a correct invoice, unless Contractor offers a discount off the invoice price for earlier payment. Contractor shall provide its drivers with any time sheets or records needed for Contractor’s record keeping.
- 1.3.15. **Liquidated Damages** – County will deduct charges resulting from liquidated damages from payments of Contractor invoices under the following conditions:
- **Failure to Report for Shift:** For any occurrence of driver’s failure to report for scheduled shift assignments, the Contractor shall be liable to the County the amount equal to the cost of the shift, based on the contract regular hourly rate.  
Formula: Contract rate x length of shift in driver shift hours = Total cost of damages
  - **Failure to Report for Shift at Designated Time:** Contractor shall be liable to the County the cost of 2 (two) hours at the contract regular hourly rate for any occurrence of driver’s failure to report within 0 to 5 minutes of scheduled report time for scheduled shift assignments. Failure to report within thirty (30) minutes of a scheduled report time shall be considered as a failure to report for shift.
  - **Sick Outs:** Any shift assigned to the Contractor that must be back-filled by a County employee due to a sick out will be considered a failure to report for shift.

**1.4. California Labor Code and Industrial Welfare Commission (IWC) Wage Order 9-2001** – All drivers are subject to California Labor Code and IWC Wage Order 9-2001 (Wage Order 9). Wage Order 9 concerns meal and rest periods for non-exempt employees and provides for at least a thirty (30) minute unpaid meal period for a work period of more than five (5) consecutive hours and a second meal period of at least thirty (30) minutes for a work period of more than ten (10) consecutive hours. These meal periods may be waived by mutual consent of the employer and employee when employees’ work periods of not more than six (6) hours will complete the day’s work or when the employees’ total hours worked for the day is no more than twelve (12) hours and the first meal period was duty-free. Furthermore given the nature of the work employees in the transportation industry perform, when drivers cannot be relieved of all duty as contemplated by Section 11.C. of IWC Wage Order No. 9, the driver will be given an on-duty meal period. Therefore the employee may receive a paid meal period rather than a duty-free meal period. Contractor’s drivers will be required to sign three forms related to Wage Order 9:

- On Duty Meal Agreement
- 5-6 Hour Waiver
- 10-12 Hour Waiver

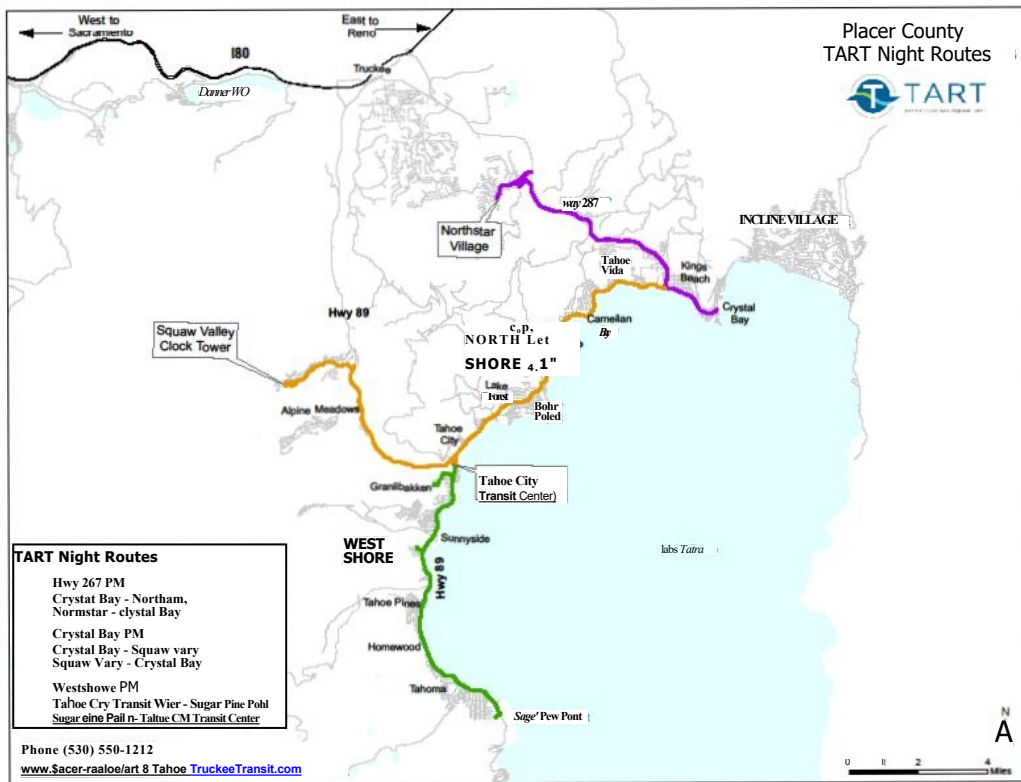
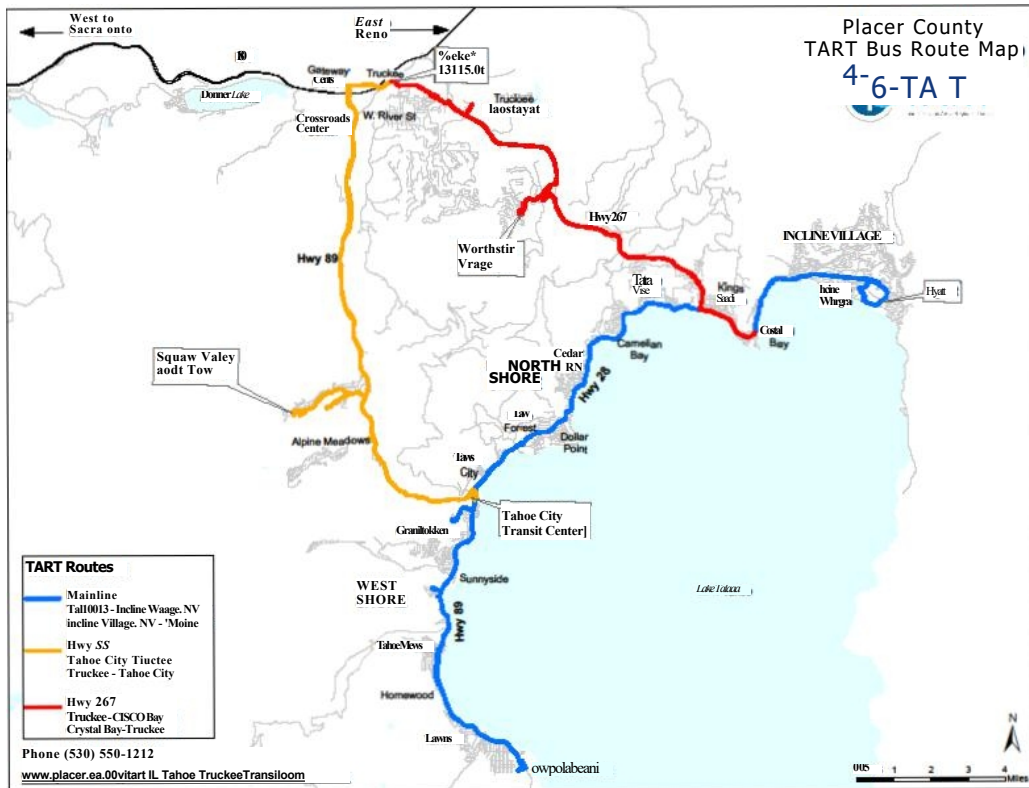
It is the obligation of the County to schedule work in such a way as to comply with Wage Order 9 and allowed exceptions. Any monetary penalties incurred by the Contractor under Wage Order 9 as a result of County staff scheduling will be reimbursed to the Contractor.

**1.5 Assurance of Designated Staff**

Contractor shall assure that the designated staff, including sub-Contractor (s) (if any), is used for this project. Departure or reassignment of, or substitution for, any member of the designated staff or sub-Contractor (s) shall not be made without the prior written approval of the County.



Attachment 1 - TART Service Area Map



**Exhibit B**

**Contract Drivers for TART  
Payment for Services Rendered**

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To be included in final contract

**Exhibit C**  
**Contract Drivers for TART Expanded Hours of Service Program**  
**Facilities, Equipment and Other Obligations of County**

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Placer County shall provide all facilities, equipment and materials necessary for contract drivers to fulfill their duties, as described in Section 4 of RFP No. 10426 and Exhibit A – Scope of Services.

While the Contractor is responsible for supervision and management of the contract drivers, Placer County shall provide oversight of the transit services operated by Contractor.

Placer County will provide Contractor with bi-weekly schedule availability at least one week in advance. The contractor will be responsible for assigning available shifts to the contract drivers.

## **Exhibit D**

### **FTA ASSISTED REQUIRED CLAUSES FOR CAPITAL AND PROFESSIONAL SERVICE PROCUREMENTS**

The Federal Government requires that activities financed, in part, with Federal funds and performed by a third party Contractor and its sub-Contractors on behalf of a Federal grantee must be carried out in accordance with Federal requirements.

Activities performed resulting from the original contract to this and any other prior or subsequent contract amendments thereto are financed, in part, by a grant from the United States Department of Transportation (DOT), Federal Transit Administration (FTA), and are therefore subject to the applicable grant terms, conditions, and regulations.

Accordingly, any Contractor and its sub-Contractors performing activities under this Agreement must adhere to the Federal regulations stated herein as a condition of satisfactory performance.

All subcontracts and sub-Contractors employed as a result of this Agreement are subject to the same conditions and regulations as set forth herein unless specifically exempted.

The Prime Contractor shall ensure that its sub-Contractors at all tiers are made aware of and comply with these Federal regulations. The Prime Contractor will be held liable for compliance failures by its sub-Contractors.

Failure to comply will render the Prime Contractor responsible for damages and/or contract termination.

**1. FLY AMERICA REQUIREMENTS**

This clause is not applicable to this procurement.

**2. BUY AMERICA REQUIREMENTS**

This clause is not applicable to this procurement.

**3. CHARTER BUS REQUIREMENTS**

**49 U.S.C. 5323(d)**

**49 CFR Part 604**

**Applicability to Contracts**

The Charter Bus requirements apply to the following type of contract: Operational Service Contracts.

**Flow Down Requirements**

The Charter Bus requirements flow down from FTA recipients and sub-recipients to first tier service Contractors.

**Model Clause/Language**

The relevant statutes and regulations do not mandate any specific clause or language. The following clause has been developed by FTA.

**Charter Service Operations**

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

**4. SCHOOL BUS REQUIREMENTS**

**49 U.S.C. 5323(F)**

**49 CFR Part 605**

**Applicability to Contracts**

The School Bus requirements apply to the following type of contract: Operational Service Contracts.

**Flow Down Requirements**

The School Bus requirements flow down from FTA recipients and sub-recipients to first tier service Contractor s.

**Model Clause/Language**

The relevant statutes and regulations do not mandate any specific clause or language. The following clause has been developed by FTA.

**School Bus Operations**

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

**5. CARGO PREFERENCE REQUIREMENTS**

This clause is not applicable to this procurement.

**6. SEISMIC SAFETY REQUIREMENTS**

This clause is not applicable to this procurement.

**7. ENERGY CONSERVATION REQUIREMENTS**

**42 U.S.C. 6321 et seq.**

**49 CFR Part 18**

### **Applicability to Contracts**

The Energy Conservation requirements are applicable to all contracts.

### **Flow Down**

The Energy Conservation requirements extend to all third party Contractor's and their contracts at every tier and sub-recipients and their sub-agreements at every tier.

### **Model Clause/Language**

No specific clause is recommended in the regulations because the Energy Conservation requirements are so dependent on the state energy conservation plan. The following language has been developed by FTA:

### **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.

## **8. CLEAN WATER REQUIREMENTS 33 U.S.C. 1251**

### **Applicability to Contracts**

The Clean Water requirements apply to each contract and subcontract which exceeds \$100,000.

### **Flow Down**

The Clean Water requirements flow down to FTA recipients and sub-recipients at every tier.

### **Model Clause/Language**

While no mandatory clause is contained in the Federal Water Pollution Control Act, as amended; the following language developed by FTA contains all the mandatory requirements:

### **Clean Water**

(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. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

## **9. BUS TESTING 49 U.S.C. 5323(c) 49 CFR Part 665**

This clause is not applicable to this procurement.

**10. PRE-AWARD AND POST DELIVERY AUDITS REQUIREMENTS**

**49 U.S.C. 5323**

**49 CFR Part 663**

This clause is not applicable to this procurement.

**11. LOBBYING**

**31 U.S.C. 1352**

**49 CFR Part 19**

**49 CFR Part 20**

**Applicability to Contracts**

The Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts.

**Flow Down**

The Lobbying requirements mandate the maximum flow down, pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 C.F.R. Part 19, Appendix A, Section 7.

**Mandatory Clause/Language**

Clause and specific language therein are mandated by 49 CFR Part 19, Appendix A.

Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*]

Lobbying Certification and Disclosure of Lobbying Activities for third party Contractor s are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that Contractor s file the certification required by 49 CFR Part 20, Appendix A.

Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.

Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

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

contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-

Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

#### APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements  
*(To be submitted with each bid or offer exceeding \$100,000)*

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

- (1) 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this 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 [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, 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.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]



Refer to **Appendix A** for signatory requirements.

**12. ACCESS TO RECORDS AND REPORTS**

**49 U.S.C. 5325**

**18 CFR 18.36 (i)**

**49 CFR 633.17**

**Applicability to Contracts**

Reference Chart "Requirements for Access to Records and Reports by Type of Contracts"

**Flow Down**

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

**Model Clause/Language**

The specified language is not mandated by the statutes or regulations referenced, but the language provided paraphrases the statutory or regulatory language.

**Access to Records**

The following access to records requirements apply to this Contract:

- (1) Where the Purchaser is not a State but a local government and is the FTA Recipient or a sub grantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor 's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
- (2) Where the Purchaser is a State and is the FTA Recipient or a sub grantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor , access to the Contractor 's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

- (3) Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
- (4) Where any Purchaser which is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
- (5) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (6) The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of 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 Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i) (11).
- (7) FTA does not require the inclusion of these requirements in subcontracts.

**Requirements for Access to Records and Reports by Types of Contract**

<b>Contract Characteristics</b>	<b>Operational Service Contract</b>	<b>Turnkey</b>	<b>Construction</b>	<b>Architectural Engineering</b>	<b>Acquisition of Rolling Stock</b>	<b>Professional Services</b>
I State Grantees						
a. Contracts below SAT (\$100,000)	None	Those imposed on state pass thru to Contractor	None	None	None	None
b. Contracts above \$100,000/Capital Projects	None unless <sup>1</sup> non-competitive award		Yes, if non-competitive award or if funded thru <sup>2</sup> 5307/5309/5311	None unless non-competitive award	None unless non-competitive award	None unless non-competitive award

II <u>Non State Grantees</u>						
a. Contracts below SAT (\$100,000)	Yes <sup>3</sup>	Those imposed on non-state Grantee pass thru to Consultant	Yes	Yes	Yes	Yes
b. Contracts above \$100,000/Capital Projects	Yes <sup>3</sup>		Yes	Yes	Yes	Yes

Sources of Authority:

1 49 USC 5325 (a)

2 49 CFR 633.17

3 18 CFR 18.36 (i)

**13. FEDERAL CHANGES**

**49 CFR Part 18**

**Applicability to Contracts**

The Federal Changes requirement applies to all contracts.

**Flow Down**

The Federal Changes requirement flows down appropriately to each applicable changed requirement.

**Model Clause/Language**

No specific language is mandated. The following language has been developed by FTA.

**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.

**14. BONDING REQUIREMENTS**

This clause is not applicable to this procurement.

**15. CLEAN AIR**

**42 U.S.C. 7401 et seq**

**40 CFR 15.61**

**49 CFR Part 18**

**Applicability to Contracts**

The Clean Air requirements apply to all contracts exceeding \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year.

### **Flow Down**

The Clean Air requirements flow down to all subcontracts which exceed \$100,000.

### **Model Clauses/Language**

No specific language is required. FTA has proposed the following language.

### **Clean Air**

- (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. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

## **16. RECYCLED PRODUCTS**

**42 U.S.C. 6962**

**40 CFR Part 247**

**Executive Order 12873**

### **Applicability to Contracts**

The Recycled Products requirements apply to all contracts for items designated by the EPA, when the Purchaser or Contractor procures \$10,000 or more of one of these items during the fiscal year, or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds. New requirements for "recovered materials" will become effective May 1, 1996. These new regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases \$10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was \$10,000.

### **Flow Down**

These requirements flow down to all Contractor and sub-Contractor tiers.

### **Model Clause/Language**

No specific clause is mandated, but FTA has developed the following language.

### **Recovered Materials**

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

## **17. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS**

This clause is not applicable to this procurement.

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

This clause is not applicable to this procurement.

19. **[RESERVED]**

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

**Applicability to Contracts**

Applicable to all contracts.

**Flow Down**

Not required by statute or regulation for either primary Contractor s or sub-Contractor s, this concept should flow down to all levels to clarify, to all parties to the contract, that the Federal Government does not have contractual liability to third parties, absent specific written consent.

**Model Clause/Language**

While no specific language is required, FTA has developed the following language.

**No Obligation by the Federal Government**

(1) The Purchaser 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 the Purchaser, Contractor , or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

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

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

**31 U.S.C. 3801 et seq.**

**49 CFR Part 31 18 U.S.C. 1001**

**49 U.S.C. 5307**

**Applicability to Contracts**

These requirements are applicable to all contracts.

**Flow Down**

These requirements flow down to Contractor s and sub-Contractor s who make, present, or submit covered claims and statements.

### **Model Clause/Language**

These requirements have no specified language, so FTA proffers the following language.

### **Program Fraud and False or Fraudulent Statements or Related Acts**

- (1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- (2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- (3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the sub-Contractor who will be subject to the provisions.

## **22. TERMINATION**

### **49 U.S.C. Part 18**

### **FTA Circular 4220.1E**

#### **Applicability to Contracts**

All contracts (with the exception of contracts with nonprofit organizations and institutions of higher education,) in excess of \$10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. (For contracts with nonprofit organizations and institutions of higher education the threshold is \$100,000.) In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the Contractor.

#### **Flow Down**

The termination requirements flow down to all contracts in excess of \$10,000, with the exception of contracts with nonprofit organizations and institutions of higher learning.

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

### **Background and Applicability**

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

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

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

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

### **Suspension and Debarment**

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

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

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by **Placer County, Department of Public Works**. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to **Placer County, Department of Public Works**, the Federal

Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**24. PRIVACY ACT**  
**5 U.S.C. 552**

**Applicability to Contracts**

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

**Flow Down**

The Federal Privacy Act requirements flow down to each third party Contractor and their contracts at every tier.

**Model Clause/Language**

The text of the following clause has not been mandated by statute or specific regulation, but has been developed by FTA.

**Contracts Involving Federal Privacy Act Requirements**

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

- (1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974,

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

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

**25. CIVIL RIGHTS REQUIREMENTS**

**29 U.S.C. § 623, 42 U.S.C. § 2000**  
**42 U.S.C. § 6102, 42 U.S.C. § 12112**  
**42 U.S.C. § 12132, 49 U.S.C. § 5332**  
**29 CFR Part 1630, 41 CFR Parts 60 et seq.**



### **Applicability to Contracts**

The Civil Rights Requirements apply to all contracts.

### **Flow Down**

The Civil Rights requirements flow down to all third party Contractor s and their contracts at every tier.

### **Model Clause/Language**

The following clause was predicated on language contained at 49 CFR Part 19, Appendix A, but FTA has shortened the lengthy text.

### **Civil Rights**

The following requirements apply to the underlying contract:

- (1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- (2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:
  - (a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, 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. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. 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, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

- (b) Age - In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- (c) Disabilities - In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- (3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary, to identify the affected parties.

## **26. BREACHES AND DISPUTE RESOLUTION**

### **49 CFR Part 18**

### **FTA Circular 4220.1E**

#### **Applicability to Contracts**

All contracts in excess of \$100,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where Contractor s violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

#### **Flow Down**

The Breaches and Dispute Resolutions requirements flow down to all tiers.

#### **Model Clauses/Language**

FTA does not prescribe the form or content of such provisions. What provisions are developed will depend on the circumstances and the type of contract. Recipients should consult legal counsel in developing appropriate clauses. The following clauses are examples of provisions from various FTA third party contracts.

#### **Disputes**

Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of (Recipient)'s [title of employee]. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. 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 the [title of employee] shall be binding upon the Contractor and the Contractor shall abide be the decision.

### **Performance During Dispute**

Unless otherwise directed by (Recipient), Contractor shall continue performance under this Contract while matters in dispute are being resolved.

### **Claims for Damages**

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

### **Remedies**

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

### **Rights and Remedies**

The duties and obligations imposed by the Contract Documents and the rights and remedies available there under shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the (Recipient), (Architect) 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 there under, except as may be specifically agreed in writing.

## **27. PATENT AND RIGHTS IN DATA**

**37 CFR Part 401**

**49 CFR Parts 18 and 19**

This clause is not applicable to this procurement.

## **28. TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS**

**49 U.S.C. § 5310, § 5311, and § 5333**

**29 CFR Part 215**

### **Applicability to Contracts**

The Transit Employee Protective Provisions apply to each contract for transit operations performed by employees of a Contractor recognized by FTA to be a transit operator. (Because transit operations involve many activities apart from directly driving or operating transit vehicles, FTA determines which activities constitute transit "operations" for purposes of this clause.)

### **Flow Down**

These provisions are applicable to all contracts and subcontracts at every tier.

### **Model Clause/Language**

Since no mandatory language is specified, FTA had developed the following language:

### **Transit Employee Protective Provisions**

- (1) The Contractor agrees to comply with the applicable transit employee protective requirements as follows:
  - (a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for non-urbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.
  - (b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body sub recipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.
  - (c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Non-urbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

(2) The Contractor also agrees to include any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

**29. DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
49 CFR Part 26**

**Background and Applicability**

The newest version of the Department of Transportation's Disadvantaged Business Enterprise (DBE) program became effective July 16, 2003. The rule provides guidance to grantees on the use of overall and contract goals, requirement to include DBE provisions in subcontracts, evaluating DBE participation where specific contract goals have been set, reporting requirements, and replacement of DBE sub-Contractor's. Additionally, the DBE program dictates payment terms and conditions (including limitations on retainage) applicable to all sub-Contractor's regardless of whether they are DBE firms or not.

The DBE program applies to all DOT-assisted contracting activities. A formal clause such as that below must be included in all contracts above the micro-purchase level. The requirements of clause subsection b flow down to subcontracts.

A substantial change to the payment provisions in this newest version of Part 26 concerns retainage (*see* section 26.29). Grantee choices concerning retainage should be reflected in the language choices in clause subsection d.

**Clause Language**

The following clause language is suggested, not mandatory. It incorporates the payment terms and conditions applicable to all sub-Contractor's based in Part 26 as well as those related only to DBE sub-Contractor's. The suggested language allows for the options available to grantees concerning retainage, specific contract goals, and evaluation of DBE subcontracting participation when specific contract goals have been established.

**Disadvantaged Business Enterprises**

- (a) This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The agency's overall goal for DBE participation is 1.47 %. A separate contract goal has not been established for this procurement.
- (b) The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Placer County deems appropriate. Each subcontract the Contractor signs with a sub-Contractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)).

(c) The Contractor is required to pay its sub-Contractor s performing work related to this contract for satisfactory performance of that work no later than 30 days after the Contractor 's receipt of payment for that work from Placer County. In addition, the Contractor may not hold retainage from its sub-Contractor's.

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

**30. [ RESERVED ]**

**31. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS FTA Circular 4220.1E**

**Applicability to Contracts**

The incorporation of FTA terms applies to all contracts.

**Flow Down**

The incorporation of FTA terms has unlimited flow down.

**Model Clause/Language**

FTA has developed the following incorporation of terms language:

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

The preceding provisions 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 FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

**32. DRUG AND ALCOHOL TESTING**

**49 U.S.C. §5331**

**49 CFR Part 655**

**Applicability to Contracts**

The Drug and Alcohol testing provisions apply to Operational Service Contracts.

**Flow Down Requirements**

Anyone who performs a safety-sensitive function for the recipient or sub recipient is required to

comply with 49 CFR 655, with certain exceptions for contracts involving maintenance services. Maintenance Contractor s for non-urbanized area formula program grantees are not subject to the rules. Also, the rules do not apply to maintenance sub-Contractor's.