

093-17 APPENDIX C - REQUIRED CLAUSES FOR FTA-ASSISTED CONTRACTS

The following terms apply when the Jacksonville Transit Authority (JTA) determines that the Contract involves or may involve the expenditure of federal funds. Unless otherwise set forth below, the Consultant must include every clause of this Section VI in all subcontracts under this Contract.

1. **Non-Discrimination.** The Consultant shall comply with the applicable requirements of Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d et seq., 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. § 12101 et seq., 29 U.S.C. § 794, 49 CFR Part 21, and federal transit law at 49 U.S.C. § 5332. The Consultant agrees that it will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, age, disability, or family status. Discrimination includes exclusion from participation, denial of program benefits and discrimination in employment or business opportunity. In addition, the Consultant agrees to comply with all applicable federal and state regulations, including those of any agency of the United States Department of Transportation (U.S. DOT) and the Florida Department of Transportation (FDOT), including FTA Advisory Circular 4702.1.
2. **Equal Employment Opportunity.**
 - (a) **Race, Creed, Color, Sex, Sexual Orientation, Gender Identity, National Origin, Religion, or Family Status** – The Consultant shall comply 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, 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 as supplemented by 41 CFR 60), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect activities undertaken in the course of the Contract. The Consultant agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or family status. 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 Consultant agrees to comply with any implementing requirements FTA or FHWA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621-634, 29 CFR Part 1625, 45 CFR Part 90, 42 U.S.C. §§6101 et seq. and federal transit law including 49 U.S.C. § 5332, the Consultant agrees to refrain from discrimination for reason of age. In addition, the Consultant agrees to comply with any implementing requirements the Department of Health and Human Services, the EEOC, FTA or FHWA may issue.

(c) Disabilities - The Consultant agrees that it will comply with the requirements of Titles I, II, III, IV and V of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 et seq., and the 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 Consultant agrees to comply with 29 U.S.C. § 794, 42 U.S.C. §4151, federal transit law including 49 U.S.C. § 5332, and any implementing requirements FTA or FHWA may issue.

3. **Compliance with Nondiscrimination Regulations.** The Consultant and all subcontractors shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the U.S. DOT, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of the Contract. In addition, the Consultant agrees to comply with federal transit law at 49 U.S.C. Section 5332, which prohibits discrimination on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, age, disability, or family status and prohibits discrimination in employment or business opportunity.
4. **Nondiscrimination.** The Consultant and all subcontractors, with regard to the work performed during the Contract, will not discriminate on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, age, disability, or family status in the selection and retention of subcontractors, including procurements of material and leases of equipment. The Consultant and all subcontractors will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
5. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations made by the Consultant and all subcontractors, either by

competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials and leases of equipment, each potential subcontractor or supplier shall be notified in writing by the Consultant of the Consultant's obligations under this Contract and the Regulations relative to nondiscrimination on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, age, disability, or family status and that these same obligations extend to any subcontractor, supplier or lessor.

6. **Information and Reports.** The Consultant will provide all information and reports required by the Regulations, or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Authority, the FDOT, the U.S. DOT or any other governmental agency designated by the Authority to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Authority, FDOT, U.S. DOT or any other governmental agency designated by the Authority, and shall set forth what efforts it has made to obtain the information.
7. **Sanctions for Noncompliance.** In the event of the Consultant's noncompliance with the nondiscrimination provisions of this Contract, the Authority shall impose such contract sanctions as it, the FDOT or the U.S. DOT may determine to be appropriate, including, but not limited to
 - (a) withholding of payments to the Consultant under the Contract until the Consultant complies and/or
 - (b) cancellation, termination or suspension of the Contract, in whole or in part.
8. **Incorporation of Provisions.** The Consultant shall include the provisions of Paragraphs 1 through 8, in every subcontract, including procurements of materials and leases of equipment unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontract or procurement as the Authority, the FDOT or the U.S. DOT may direct as a means of enforcing such provisions, including sanctions for noncompliance. In the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the Authority and the FDOT to enter into such litigation to protect the interests of the Authority and the FDOT, and, in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

9. **Participation by Disadvantage Business Enterprises.** The Consultant shall abide by the following statement from 49 CFR 26.13(b). This statement shall be included in all subsequent agreements between the Consultant and any subcontractor or contractor.

The Consultant, subrecipient or subcontractor shall not discriminate on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, age, disability, or family status in the performance of this Contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in termination of this Contract or other such remedy as the Authority deems appropriate.

10. **Debarment, Suspension, Ineligibility and Voluntary Exclusion.** If the Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction that the Consultant provided as part of its Proposal was erroneous when submitted or has become erroneous by reason of changed circumstances, the Consultant shall provide immediate written notice to the Authority.
11. **Sensitive Security Information.** The Consultant shall protect, and take measures to ensure that its subcontractors at each tier protect, "sensitive security information" made available during the administration of this Contract to ensure compliance with 49 U.S.C. Section 40119(b) and implementing DOT regulations, "Protection of Sensitive Security Information," 49 CFR Part 15, and with 49 U.S.C. Section 114(r) and implementing Department of Homeland Security regulations, "Protection of Sensitive Security Information," 49 CFR Part 1520.
12. **Changes to Federal Requirements.** The Consultant shall at all times comply with all applicable US DOT, FHWA and FTA regulations, policies, procedures, directives and federal guidance, including without limitation those listed directly or by reference in the Master Agreement (Form FTA MA (19) dated October 2012) between the Authority and FTA, as they may be amended or promulgated from time to time during the term of a Contract resulting from this Solicitation. The Consultant shall not perform any act, fail to perform any act or refuse to comply with any request of the Authority which would cause the Authority to be in violation of any of the FTA or FHWA terms and conditions. The Consultant's failure to so comply shall constitute a material breach of this Contract.

13. **Incorporation of Federal Transit Administration and Federal Highway Administration Terms.** All contractual provisions required by the US DOT, as set forth in FTA Circular 4220.1F, revised March 18, 2013, whether or not set forth in this Contract are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA and FHWA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Consultant shall not perform any act, fail to perform any act, or refuse to comply with any Authority request which would cause the Authority to be in violation of FTA and FHWA terms and conditions.
14. **Fly America.** The Consultant agrees to comply with 49 U.S.C. 40118 (the “Fly America” Act) in accordance with the General Services Administration’s regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of federal funds and their Consultants are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Consultant shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements.
15. **No Federal Government Obligation to Third Parties.** Notwithstanding any concurrence by the federal government in or approval of the solicitation or award of the 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 Authority, Consultant, or any other party (whether or not a party to the Contract) pertaining to any matter resulting from this Contract.
16. **False or Fraudulent Statements or Claims and Related Acts – Civil and Criminal Fraud.** The Consultant 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 this Contract. Upon execution of the Contract, the Consultant certifies or affirms the truthfulness and accuracy of any claim, statement, submission, certification, assurance or representation it has made, it makes, it may make, or causes to be made, pertaining to the underlying Contract or the FTA or FHWA assisted project for which this Contract work is being performed. In addition to other penalties that may be applicable, the Consultant further acknowledges that if it presents, submits, makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, certification, assurance or representation, the

federal government may impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Consultant to the extent the federal government deems appropriate.

The Consultant also acknowledges that if it presents, submits, makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, certification, assurance or representation in connection with this Contract, under the authority of 49 U.S.C. § 5307 and 49 U.S.C. § 5323, the federal government may impose the penalties on the Consultant authorized by 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1), to the extent the federal government deems appropriate. It is further understood and agreed that the willful falsification, distortion or misrepresentation with respect to any facts related to the project(s) described in this Contract is a violation of the federal law. Accordingly, United States Code, Title 18, Section 1020, is hereby incorporated by reference and made a part of this Contract.

17. **Environmental Protection.** The Consultant shall comply with all applicable requirements of Section 29 of the FTA Master Agreement (2012), including the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 et seq. (as limited by 42 USC §5159), Executive Order No. 11514 Executive Order No. 11514, as amended, “Protection and Enhancement of Environmental Quality,” 42 U.S.C. § 4321 note; FTA statutory requirements on environmental matters at 49 U.S.C. § 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 40 C.F.R. Parts 1500 *et seq.*; and joint FHWA/FTA regulations, “Environmental Impact and Related Procedures,” 23 C.F.R. Part 771 and 49 C.F.R. Part 622. Consultant shall also comply with federal transit laws, including 49 U.S.C. §5323(c)(2) as amended by MAP-21. In addition, the Consultant agrees to comply with any implementing requirements FTA or FHWA may issue.
18. **Seismic Safety.** The Consultant agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The Consultant also agrees to ensure that all work performed under this Contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the Project.
19. **Conformance with Intelligent Transportation Systems (ITS) National Architecture.** Intelligent Transportation System (ITS) property and services must comply with the National ITS Architecture and Standards to the extent required by 23 U.S.C. §517(d) as

amended by MAP-21, Section 5307(c) of SAFETEA-LU, FTA Notice, “FTA National ITS Architecture Consistency Policy for Transit Projects,” 66 FR 1455 et seq., January 8, 2001, 23 CFR Parts 655 and 940, and later published FTA and FHWA regulations, rules, policies, implementing guidance and directives. Additionally, such ITS equipment and designs shall comply with the latest ITS architecture and standards adopted by the FHWA, FDOT, CoJ and First Coast ITS Coalition.

20. **Metric Measurements.** To the extent practicable and feasible, the Consultant shall express all dimensions in metric measurements, in compliance with the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act, 15 U.S.C. Sections 205a *et seq.*; Executive Order No. 12770, “Metric Usage in Federal Government Programs,” July 25, 1991, 15 U.S.C. Section 205a note; and applicable federal regulations.
21. **Electronic Reports and Information.** Reports and other information prepared in electronic format developed under this Contract, whether as a contract end item or in compliance with contract administration provisions, must comply with the accessibility standards of Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794d, and ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 CFR Part 1194.
22. **Access to Records and Sites of Project Performance and Record Retention.**
 - A. The Consultant shall maintain all Contract records (including paper and electronic records) in a manner so that they are readily accessible for review, audit and inspection and shall provide to the Authority, the USDOT, the FHWA Administrator, the FTA Administrator, the Comptroller General of the United States, the FDOT, or any of their authorized representatives or employees, access to any data, accounts, payrolls, project work, project materials, documents, reports, records, statistics, subagreements, leases, third party contracts, arrangements, books, papers and records of the Consultant (and all supporting material related thereto) which are related to this Contract for the purposes of making audits, inspections, examinations, excerpts and transcriptions. Consultant also agrees, pursuant to 49 C. F. R. 633.15 to provide the agencies, or their authorized representatives including any PMO Consultant, access to Consultant’s records and work 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. In accordance with 49 CFR 18.40, federal agencies may make site visits as warranted by program needs.

B. The Consultant agrees to permit any of the foregoing parties to reproduce any record by any means whatsoever.

C. The Consultant agrees to maintain all books, records, accounts and reports required under this Contract for a period of not less than **five (5) years** after the date of termination, expiration or final payment of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract or other pending matters, in which case Consultant agrees to maintain same until the Authority, the FTA Administrator, the Comptroller General, the FDOT, and any of their duly authorized representatives, have disposed of all such litigation, appeals, claims, exceptions and other matters related thereto. Reference 49 CFR 18.36(i)(11).

D. Any of the agencies listed above may, at any time during normal business hours, with or without prior notice and by or through its employees or its Consultants, inspect, copy and audit all of the books and records of the Consultant (and its subcontractors, if any) including all work papers and correspondence and financial records related to such services.

23. Access Requirements for Persons With Disabilities (ADA)

The Consultant agrees to comply with the requirements of 49 U.S.C. § 5301(d) which expresses 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 those policies. The Consultant also agrees to comply with all applicable requirements of sections 503 and 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, and with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires the provision of accessible facilities and services, and with the following federal regulations, including any amendments thereto: (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37; (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27; (3) Joint U.S. Architectural and Transportation Barriers Compliance Board/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38; (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35; (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36; (6) U.S. GSA regulations, "Accommodations for the Physically

Handicapped,” 41 C.F.R. Subpart 101-19; (7) 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; (8) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled,” 47 C.F.R. Part 64, Subpart F; and (9) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. Part 609; and (10) Any implementing requirements FTA may issue.

This section applies to subcontractors at all levels and must be added to all subcontracts, regardless of tier.

24. **Energy Conservation.** The Consultant shall comply with the Florida Energy Efficiency Code for Building Construction and all mandatory standards and policies relating to energy efficiency, when applicable.

25. **Rights in Data.**

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

(2) The following restrictions apply to all subject data first produced in the performance of this Contract:

(a) Except for its own internal use, the Authority or Consultant may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Authority or Consultant authorize others to do so, without the written consent of the federal government, until such time as the federal government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the federal government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "federal government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for federal government purposes," means use only for the direct purposes of the federal government. Without the copyright owner's consent, the federal government may not extend its federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and
2. Any rights of copyright purchased by the Authority or Consultant using federal assistance in whole or in part provided by FTA.

(c) When FTA awards federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Authority and the Consultant performing experimental, developmental, or research work required by this Contract agrees to permit FTA to make available to the public, either the license in the copyright to any subject data developed in the course of this Contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying Contract, is not completed for any reason whatsoever, all data developed under that Contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the federal government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Authority or Consultant's use whose costs are financed in whole or in part with federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the federal government, the Authority and the Consultant agree to indemnify, save, and hold harmless the federal government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Authority or Consultant of

proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Authority nor the Consultant shall be required to indemnify the federal government for any such liability arising out of the wrongful act of any employee, official, or agents of the federal government.

(e) Nothing contained in this clause on rights in data shall imply a license to the federal government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the federal government under any patent.

(f) Data developed by the Authority or Consultant and financed entirely without using federal assistance provided by the federal government that has been incorporated into work required by the Contract is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Authority or Consultant identifies that data in writing at the time of delivery of the Contract work.

(g) Unless the federal government determines otherwise, the Consultant agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with federal assistance.

26. **Cargo Preference - Use of United States-Flag Vessels.** The Consultant agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the Consultant in the case of a subcontractor's bill-of-lading.) c. to include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

27. **Policies on Texting while Driving and Distracted Driving.** The Consultant shall prohibit text messaging while driving and distracted driving and comply with the intent of Executive Order No. 13513, 23 USC section 402 note and DOT Order 3902.10.
28. **Seatbelt Use.** The Consultant shall require all operators of motor vehicles (whether rented or owned) to use seatbelts.

CLAUSES FOR CONTRACTS EXCEEDING \$100,000

1. Clean Air. The Consultant 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 Consultant agrees to report the use of facilities on or likely to be placed on the U.S. EPA "List of Violating Facilities," refrain from using any violating facilities, comply with inspection requirements and report each violation to the Authority. The Consultant understands and agrees that the Authority will, in turn, report each violation as required to assure notification to the FTA or FHWA and the appropriate EPA Regional Office.

2. Clean Water. The Consultant 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 Consultant agrees to report the use of facilities on or likely to be placed on the U.S. EPA "List of Violating Facilities," refrain from using any violating facilities, comply with inspection requirements and report each violation to the Authority. The Consultant understands and agrees that the Authority will, in turn, report each violation as required to assure notification to the FTA or FHWA and the appropriate EPA Regional Office.

3. Buy America. The Consultant shall comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, where applicable, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by the FTA, or the product is subject to a general waiver. Work orders and small purchases of less than one hundred thousand dollars (\$100,000.00) made with capital, operating, or planning funds are waived from Buy America requirements.

The JTA requires each Consultant to submit a completed Buy America certificate with its Proposal in accordance with §§ 661.6 or 661.12, as appropriate. The JTA presumes that any Consultant who submitted such certificate is complying with the Buy America provisions. A false certification is a criminal act in violation of 18 U.S.C. § 1001. A Consultant who certifies that it will comply with the applicable Buy America requirement is bound by its original certification (in the case of a sealed bidding procurement) or the certification it submitted with its final offer (in the case of a negotiated procurement) and is not permitted to change its certification after bid opening or submission of its final offer. Where a Consultant certifies that it will comply with Buy America requirements, the Consultant is not eligible for a waiver of those requirements. The JTA reserves the right to request additional information, and/or to conduct both pre-award and post-award audits to ensure that the Consultant is in compliance with Buy America requirements.

4. Contract Work Hours and Safety Standards (for contracts involving laborers or mechanics)

(1) Overtime requirements - No Consultant 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 Consultant and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Consultant and subcontractor shall be liable to the United States 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 - The Authority 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 Consultant or subcontractor under any such contract or any other Federal contract with the same prime Consultant, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Consultant, such sums as may be determined to be necessary to satisfy any liabilities of such Consultant or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts - The Consultant or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Consultant 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.

13. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM. It is the official policy of the U.S. Department of Transportation (DOT) and the Authority that Disadvantaged Business Enterprises (DBEs) have a level playing field on which to participate in the performance of all contracts. This Solicitation and contract award are subject to the requirements of Title 49 Code of Federal Regulations, Part 26.

The Respondent and its subcontractors shall not discriminate on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, age, disability, religion, or family status in the performance of the Contract. The Respondent shall carry out applicable requirements of the DBE program in the award and administration of the work associated with the Contract.

Participation Goals. If a DBE participation goal has been established for the Contract, Respondents must meet one (1) of the following criteria to be considered for the Contract:

(a) Achieve the DBE participation goal as specified below;

OR

(b) Submit documentation detailing its good faith efforts.

If a DBE participation goal has not been established for this project, Respondents are encouraged to make every attempt to secure a level of DBE participation that contributes toward the achievement of Authority's overall DBE goal of 19.27%. When a goal has been established, the failure of the Respondent to either meet the participation goal or submit satisfactory evidence of good faith efforts may result in the Response being rejected as nonresponsive.

(X) DBE Goal Established For The Contract: The Proposer shall make a good faith effort to subcontract (**Twenty Percent (20%)**) of the dollar value of the total annual aggregate amount of the Contract **as set forth in the Notice**, to certified

DBE subcontractors (race conscious). Contracted Proposers shall submit reports, on forms provided or approved by the Authority: (1) with each invoice, indicating the amount of the progress payment due to DBE firms; and (2) quarterly and annual reports indicating the total aggregate amounts paid by the Authority to the Proposer for each work or Purchase Order, and the amount and percentages of those payments which have been paid to individually identified DBE firms.

() No DBE Goal Established For The Contract: Respondents are encouraged to make every attempt to obtain participation of certified DBEs and other small businesses in the completion of the Contract (race neutral).

Documenting Goal Initiatives. Where applicable, DBE forms will be used to document the Respondent's achievement of the established DBE goal for the Contract or, if no goal is specified, information on DBE participation. DBE forms shall be as complete and accurate as possible, and shall include all required information. Failure to comply with these requirements may be cause for rejection of the Response. A Respondent who does not meet the stated DBE goals, where assigned, must also submit Good Faith Effort documentation as part of its Response (see the "Good Faith Efforts" section listed below). Respondents who do not address these requirements may be deemed non-responsive.

Determining Compliance with DBE Requirements for Contracts with a DBE Goal –

Forms. Each Respondent must acknowledge its commitment to achieving the DBE participation goals set by the Authority. There are several required forms that must be submitted as part of the

Solicitation process, which support this requirement:

- Schedule of Subsuppliers/Subcontractors Form - Identifies those subcontractors/suppliers whom the Respondent will utilize on the Contract, including the certified DBE businesses, and the scope and relative value (expressed as a percentage) of work to be performed by each subcontractor.
- Respondent's List - Lists all potential subcontractors/suppliers contacted by the Respondent for the Contract.
- Intent to Perform as a DBE - Submitted for each DBE subcontractor/supplier, outlining the dollar value of the work to be performed.

If the Respondent is awarded a Contract with the Authority, it must enter into a formal written agreement with the DBEs identified in its *Schedule of Subsuppliers/Subcontractors Form* in accordance with the assignments identified and outlined in the *Intent to Perform as a DBE*.

If the selected Respondent is a certified DBE and intends to perform a portion of the work with its own forces, the Respondent shall identify the responsibilities it intends to perform by type and by percentage of work to be done. In order for the work to be counted towards the DBE goal assigned to the project, the Respondent must perform the work as specified and may not delegate or contract the specified responsibilities to other entities.

Certification. ALL PROPOSED DBEs MUST BE CERTIFIED BY THE FLORIDA UNIFORM CERTIFICATION PROGRAM (UCP) AT THE TIME OF SUBMISSION OF THE RESPONSE. If a subcontractor/supplier is not certified by the aforementioned certification program at the time of submission, the Respondent can neither report the non-certified business' participation, nor include that company's dollar value of work towards any established DBE

goals. Applications for certification may be obtained from the Authority directly or from the Authority's website at www.jtafla.com. The Respondent shall fully comply with all requests for additional documentation. In determining an applicant's eligibility for DBE status, the Authority will generally rely upon the Federal Certification Process, as described in 49 CFR Part 26. In addition, as a member of the Unified Certification Program (UCP) within the state of Florida where FDOT is the host agency, the Authority will accept DBEs certified by FDOT and may, on a case-by-case basis, accept a DBE certification decision made by another UCP or non-Florida Department of Transportation.

Good Faith Efforts. Any Respondent who is unable to meet the requested DBE

participation goal, where established, is required to include, as part of its Response, Good Faith Effort documentation detailing the attempts made to secure DBE participation. An important component in evaluating a Respondent's good faith efforts is the number of qualified DBEs expressing an interest in performing work under the Contract. When there is limited availability of such firms, a Respondent cannot reject a DBE as unqualified unless the Respondent has sound reasons to do so, as determined by a thorough investigation of the DBE's capabilities.

The extent and type of actions required for a Respondent to meet the good faith effort requirement may vary depending upon such factors as industry practice, time available for submitting a Response, and the type of agreement involved. See Appendix A to 49 CFR Part 26 for additional information. The following list, which is neither exclusive nor exhaustive, provides examples of the actions and activities which would be considered good faith efforts on the part of a Respondent attempting to meet the prescribed DBE goal:

a) Attending planned pre-response meetings scheduled by the Authority to review resources, such as certified DBE vendor lists, and to discuss, among other

things, DBE participation opportunities;

b) Advertising in general circulation, trade association, and minority/women focused media concerning subcontracting opportunities;

c) Soliciting the interest of a reasonable number of DBEs through written notices, and allowing an adequate amount of time for response and inquiry from interested parties;

d) Contacting prospective DBE participants in response to initial Solicitations to assess level of interest;

e) Utilizing subcontracting arrangements and other techniques to structure the project in a manner designed to increase the likelihood of participation of DBE firms;

f) Providing interested DBEs with adequate information about the plans, specifications, scope of work, and requirements of the Contract;

g) Discussing with interested DBEs the required capabilities of the project, and performing a thorough investigation of the DBE's qualifications to determine inherent competencies;

h) Using good business judgment to negotiate in good faith with interested DBEs regarding price, and reviewing all reasonable quotes from interested DBE businesses;

i) Assisting interested DBEs in obtaining bonding, lines of credit, insurance, and other guarantees required by the Authority and/or the Respondent;

j) Supporting interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance and services; and

k) Effectively utilizing the services of various community and professional organizations to aid in identifying qualified DBEs. These organizations include, but are not limited to minority and women-based: community organizations; chambers of commerce; contractor groups; local, state, and federal business assistance offices; the Authority; and other organizations that provide assistance in the identification of DBEs.

These efforts are active steps, ones that may significantly increase the potential for sufficient DBE participation and the achievement of DBE participation goals. When the Authority determines that the Respondent's actions were mere pro forma efforts that fall short of the good faith efforts such as those listed above, the Response may be rejected as non-responsive.

15. TAXES. The Authority is exempt from the following taxes: (a) State of Florida Sales Tax by Certificate No.85-8012646346C-1; and (b) Federal Excise Tax Registration No. 59-6018367. The only purchases allowed to be made using these exemptions are to be made on either an Authority Purchase Order or an Authority check. The sales tax exemption does not apply to goods or services that are purchased or consumed by the Respondent for which the Respondent is deemed to be the ultimate consumer. The Response price shall include all applicable taxes and charges, if any.

16. CARTAGE. All cartage and package charges shall be included in the Response price.

17. DEVIATIONS TO SPECIFICATIONS. In addition to the requirements of the previous paragraph, all requests for deviations from the specifications must be submitted as a written question prior to the deadline for questions. Responses may be rejected as non-responsive

if deviations are used without being approved in an Addendum.

18. "OR EQUAL" SUBSTITUTIONS. All products listed in the Scope of Work are preapproved

by the Authority. Even though a particular manufacturer's name or brand may be specified, Responses may include other brands or manufacturers when those brands or manufacturers meet the quality requirements, if approved by an Addendum. To obtain approval, submit a written question, in advance of the deadline for questions, to the contact person identified in the Notice, clearly identifying the product (brand and model number), and supply sufficient data to enable an intelligent comparison to be made with the particular brand or manufacturer specified. All samples shall be submitted in accordance with procedures outlined in paragraph 20. Catalog cuts and technical descriptive data shall be attached to the request where applicable. Responses may be rejected as non-responsive if items are included in the Response without first being approved in an Addendum.

19. DATA REQUIRED TO BE SUBMITTED.

(a) Whenever the specifications indicate a product of a particular manufacture, model, or brand, in the absence of any statement to the contrary by the Respondent, the Response will be interpreted as being for the exact brand, model, or manufacture specified, together with all accessories, qualities, tolerances, compositions, etc., enumerated in the detailed specifications.

(b) If no particular brand, model, or make is specified, and if no data is required to be submitted with the Response, the successful Respondent, after award and before manufacture or shipment, may be required to submit a working drawing or detailed descriptive data sufficient to enable the Authority to determine whether all requirements of the specifications are being

complied therewith.

20. SAMPLES. The Authority may require samples to be submitted prior to or subsequent to Response opening. In either case, the samples will be evaluated for responsiveness and compliance with the specifications, and will not be evaluated comparatively to other samples submitted by competing Respondents. The samples submitted by Respondents on items for which they received an award may be retained by the Authority until the delivery of contracted items is complete and accepted. Respondents whose samples are retained may remove them after delivery is accepted.

Samples on which Respondents are unsuccessful must be removed as soon as possible after an award has been made on the item(s) for which the samples have been submitted. The Authority will not be responsible for such samples if not removed by the Respondent within thirty (30) days

after the award has been made. The Authority reserves the right to consume any or all samples for testing purposes.

Respondents shall make all arrangements for delivery of samples to the designated location, and both the removal of samples and cost of delivery shall be borne by the Respondent.

All sample packages shall be marked "Sample for Procurement Department" and each sample shall bear the name of the Respondent, item number, ITN number, and be carefully tagged or marked in a substantial manner. Failure by the Respondent to clearly identify samples as described herein may be sufficient reason for the Authority to reject the Response.

21. DISCOUNTS. ALL DISCOUNTS SHALL BE INCLUDED IN THE RESPONSE PRICE.

22. UNIT PRICE ERRORS. In case of error in extension of price in the Response, the unit price shall govern. The Respondent understands that the quantities have been estimated by the Authority for the purposes of soliciting and evaluating Responses, and that if the actual quantities differ from the estimates, the Authority is only obligated to pay for the actual quantities ordered by the Authority.

23. PROCUREMENT DEPARTMENT AS AGENT. When the Procurement Department is acting as agent for "other public activities" defined as activities receiving financial support in part from the Authority but not under the direct governing jurisdiction of the Authority, the name of such public activity shall be substituted for the words "JTA" and "Authority" throughout the Solicitation and Contract.

24. ETHICS PROVISION. The Respondent, by affixing its signature to its Response and/or by accepting a Purchase Order, represents that it has reviewed the provision of the Jacksonville Ethics Code contained in chapter 602, Jacksonville Ordinance Code, and the provisions of the Procurement Code contained in chapter 126, Jacksonville Ordinance Code.

25. ACKNOWLEDGEMENT AND AGREEMENT TO CONTRACT TERMS. By signing the Response Form, the Respondent acknowledges its agreement to all terms, conditions, and specifications contained in this Solicitation and resulting Contract, if any. The work is to begin only after proper authorization and issuance of a Notice to Proceed.

26. NO RESPONSE PREP COSTS. Under no circumstances will the Authority compensate any Respondent for the costs associated with responding to this Solicitation.

27. ALL-INCLUSIVE RESPONSE. The Response shall include, at no additional cost to the Authority, all necessary safety equipment: in addition, all necessary taxes, licenses, permits, and insurance shall also be obtained by the Respondent at no additional cost to the Authority.

28. REQUEST FOR CLARIFICATION AND SUPPLEMENTAL INFORMATION.

The Authority reserves the right to seek clarification and supplemental information from any or all Respondents when the Response contains any information or implication that is ambiguous.

29. PUBLIC RECORDS AND GOVERNMENT IN THE SUNSHINE LAWS. The Authority is subject to the Florida Public Records Law, the Government in the Sunshine Act, and possibly the Freedom of Information Act (FOIA). In compliance therewith, at the sole discretion of the Authority, the Authority may disseminate or make available to any person, without the consent of the Respondent, information regarding the Contract or the Response, including without limitation: requirements; specifications; drawings; sketches; schematics; models; samples; tools; computer or other apparatus programs; and technical information or data, whether or written or oral, furnished to the Authority in connection with this Solicitation.

30. AVAILABILITY OF RESPONSES AFTER OPENING. In accordance with the Florida Public Records Law, Florida Statute Section 119, copies of all Responses are available for public inspection thirty (30) days after the opening of Responses or on the date of Notice of

Intent to Award, whichever is earlier. Respondents may review opened Responses once they are available for public inspection by contacting the JTA Public Records Office at publicrecords@jtafla.com.

If JTA rejects all Responses submitted in response to a competitive Solicitation and concurrently provides notice of its intent to reissue the competitive Solicitation, the rejected Responses remain exempt from §§ 119.07(1) and 119.24(a), Art. I of the State Constitution until such time as JTA provides notice of an intended decision concerning the reissued competitive Solicitation or until JTA withdraws the reissued competitive Solicitation. A Response is not exempt for longer than twelve (12) months after the initial notice rejecting all Responses.

31. SUDAN/IRAN PROHIBITION. Pursuant to Section 287.135, Florida Statutes, by submitting a Response, the Respondent certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

32. STANDARD ASSURANCES (including Non-Collusion and Debarment Certifications). By submitting a signed Response, each Respondent certifies, under penalty of perjury, that:

A. The Respondent understands all requirements and, if selected, the Respondent will comply with all of the requirements of the Solicitation, the Response, and any resulting Contract.

B. The signatory of the Respondent is of lawful age, and no other person, firm, or corporation, other than those clearly identified in the Response, has any interest in the

Response and/or any resulting Contract.

C. The Response is made without any understanding, agreement, or connection with any other Respondent or potential Respondent for the Contract, and is in all respects fair and without collusion or fraud; no attempt has been made or will be made by the Respondent to induce any other person, entity, partnership, or corporation to submit or not submit a Response for the purpose of restricting competition; the prices in the Response have been arrived at independently without collusion, consultation, communication, or agreement with any other Respondent or with any other competitor for the purpose of restricting competition as to any other matter relating to such prices; unless otherwise required by law, the prices which have been noted in the Response have not been knowingly disclosed by the Respondent and will not knowingly be disclosed by the Respondent prior to opening, directly or indirectly, to any other Respondent or to any competitor.

D. The Respondent is familiar with, and the Response is in full compliance with, all applicable federal, state, and local laws and regulations, and the Respondent shall fully comply with same during the entire term of the Contract. The Respondent certifies that the Response complies with all applicable safety requirements, such as those required by OSHA, EPA, and the Authority.

E. The Respondent understands that a person or affiliate (as defined by Florida law) who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a Response, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, Response, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, Responses, or replies on leases of real property to a public entity; may not be

awarded or perform work as a contractor, supplier, subcontractor, or contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Florida Statutes section 287.017 for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. By submitting a signed Response, the Respondent certifies, under penalty of perjury, that no person, entity, or affiliate involved in the Response is in violation of the restriction noted above.

F. If the Response is over one hundred thousand dollars (\$100,000), the Respondent understands that the Contract awarded under this Solicitation, if any, is a covered transaction for purposes of the following statutes and regulations and the Respondent is required to comply with 2 CFR Part 1200, 2 CFR Part 180, Executive Orders 12549 and 12689, and 31 U.S.C. § 6101 note, as each may be amended from time to time. By submitting a signed Response, the Respondent certifies, that:

1. The Respondent is not currently debarred or suspended by the Authority under the Authority's rules, and the Respondent will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the provisions of 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. The Respondent and its principals and subrecipients at the first tier:

- a. Are eligible to participate in covered transactions of any federal department or agency and are not presently:

- (1) Debarred,

- (2) Suspended,
- (3) Proposed for debarment,
- (4) Declared ineligible,
- (5) Voluntarily excluded, or
- (6) Disqualified;

b. The Respondent's management has not, within a three (3) year period preceding its Response, been convicted of or had a civil judgment rendered against any member of management 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. The Respondent 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 Section 1.b of this Certification;

d. The Respondent has not had one (1) or more public transactions (federal, state, or local) terminated for cause or default within a three (3) year period preceding this Certification;

e. If, at a later time, the Respondent receives any information that

contradicts the statements of subparagraphs 2.a – 2.d above, the Respondent will promptly provide that information to the Authority;

f. The Respondent will treat each lower tier subcontract under this Contract as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:

- (1) Equals or exceeds twenty-five thousand dollars (\$25,000.00),
- (2) Is for audit services, or
- (3) Requires the consent of a federal official; and

g. The Respondent will require that each covered lower tier 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 this Contract is not presently declared by any federal department or agency to be:

- (a) Debarred,
- (b) Suspended,
- (c) Proposed for debarment,
- (d) Declared ineligible to participate,
- (e) Voluntarily excluded from participation, or
- (f) Disqualified from participation.

3. The Respondent shall provide a written explanation attached to the Signature Page of the Response if it or any of its principals, including any of its first tier subrecipients or any of its third-party participants at a lower tier, are unable to certify compliance with the preceding statements in this Certification. If requested by the

Authority, the Respondent shall execute the FDOT Form 375-30-32.

33. PROTESTS. All protests concerning this Solicitation and any award hereunder shall comply with and be governed by the Authority's Solicitation and Award Protest Rule 004 (the "Rule"), a copy of which is available from the Authority's website at www.jtafla.com (under "About JTA," then "Administrative Rules," then "Rule 004") or from the Authority's Administrative Offices at 121 West Forsyth Street, Suite 200, Jacksonville, Florida 32202. Under the Rule, any person who wishes to protest the contents of this Solicitation, including Addenda, shall file with the Authority's Senior Contracts, Procurement, and Inventory Manager a written Notice of Protest no less than five (5) business days before the Response's due date, and comply with the other requirements of the Rule. Under the Rule, any person who is adversely affected by the Authority's decision or intended decision with respect to an award under this Solicitation shall file with the Authority's CEO and Senior Contracts, Procurement, and Inventory Manager a written protest, no later than 5:00 p.m. on the fifth (5th) business day after the posting of the Notice of Decision or Intended Decision, and shall comply with the other requirements of the Rule. Failure to timely file a Notice of Protest shall constitute a waiver of proceedings under the Rule.