

STATE OF TEXAS **§**

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COUNTY OF FORT BEND **§**

**ADDENDUM TO AGREEMENT FOR PURCHASE OF TRANSIT VEHICLES
PURSUANT TO THE STATE OF OKLAHOMA'S SPECIAL PROVISIONS FOR PROCUREMENT OF
CAPITAL EQUIPMENT IN EXCESS OF \$100,000 USING FEDERAL FUNDS**

THIS ADDENDUM is made and entered into by and between Fort Bend County, (hereinafter "County"), a body corporate and politic under the laws of the State of Texas, and Model 1 Commercial Vehicles, Inc. (hereinafter "MODEL 1"), a company authorized to conduct business in the State of Texas.

WITNESSETH

WHEREAS, County desires that MODEL 1 provide transit vans and buses, which meet or exceed the specifications contained in Exhibit A (hereinafter "Services") pursuant to State of Oklahoma's Special Provisions for Procurement of Capital Equipment in Excess of \$100,000 using Federal Funds, attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, MODEL 1 represents that it is qualified and desires to perform such Services;
and

WHEREAS, MODEL 1 understands and acknowledges that this Agreement may be totally or partially funded with federal and or state funds;

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

AGREEMENT

Section 1. Recitals:

The recitals set forth above are incorporated herein by reference and made a part of this Agreement.

Section 2. Scope of Services:

2.1 MODEL 1 shall render Services to County as defined in the Scope of Services (attached hereto as Exhibit B) which includes the MODEL 1's Quote and "Approved Vehicle Specifications and Pricing Sheets".

2.2 MODEL 1 agrees that a “Service Event” includes delivery and acceptance of each manufactured vehicle and associated data deliverables including approval of all required

documentation. The County reserves the right to have any and all documentation audited by a third party.

Section 3. Personnel

3.1 MODEL 1 represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the services required under this Agreement and that MODEL 1 shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the services when and as required and without delays.

3.2 All employees of MODEL 1 shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of MODEL 1 who, in the opinion of County, is incompetent or by his conduct becomes detrimental to the project shall, upon request of County, immediately be removed from association with the project.

Section 4. Compensation and Payment

4.1 MODEL 1's fees shall be calculated at the rates set forth in Exhibit B. The Maximum Compensation for contract services is one million, three hundred seventy-four thousand, five hundred twenty-three dollars and 20/100 (\$1,374,523.20). In no case shall the amount paid by County per Service Event under this Agreement exceed the Maximum Compensation without an approved change order.

4.2 MODEL 1 understands and agrees that the Maximum Compensation stated is an all-inclusive amount and no additional fee, cost or reimbursed expense shall be added whatsoever to the fees stated in the Exhibit B.

4.3 All performance of the services by MODEL 1 including any changes in the services and revision of work satisfactorily performed will be performed only when approved in advance and authorized by County.

4.4 County will pay MODEL 1 based on the following procedures: Upon completion of each Service Event, MODEL 1 shall submit to County two (2) original copies of invoices showing the amounts due for Services performed in a form acceptable to County. MODEL 1 may submit electronically via: apauditor@fbctx.gov. County shall review such invoices and approve them within 30 calendar days with such modifications as are consistent with this Agreement and forward same to the Auditor for processing. County shall pay each such approved invoice within thirty (30) calendar days. County reserves the right to withhold payment pending verification of satisfactory work performed.

Section 5. Limit of Appropriation

5.1 MODEL 1 clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total

maximum sum of one million, three hundred seventy-four thousand, five hundred twenty-three dollars and 20/100 (\$1,374,523.20) specifically allocated to fully discharge any and all liabilities County may incur.

5.2 MODEL 1 does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that MODEL 1 may become entitled to and the total maximum sum that County may become liable to pay to MODEL 1 shall not under any conditions, circumstances, or interpretations thereof exceed one million, three hundred seventy-four thousand, five hundred twenty-three dollars and 20/100 (\$1,374,523.20).

5.3 It is specifically understood and agreed that in the event no funds or insufficient funds are appropriated by County under this Agreement, County shall notify all necessary parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to County.

Section 6. Time of Performance or Term

The original term of this Agreement will begin upon execution by County and end April 30, 2025.

Section 7. Modifications and Waivers

7.1 The parties may not amend or waive this Agreement, except by a written agreement executed by both parties.

7.2 No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition.

7.3 The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

Section 8. Termination

8.1 Termination for Convenience

8.1.1 County may terminate this Agreement at any time upon thirty (30) days written notice issued by the County Judge or the Department Director.

8.2 Termination for Default

8.2.1 County may terminate the whole or any part of this Agreement for cause in the following circumstances:

8.2.1.1 If MODEL 1 fails to perform services within the time specified in the Section 5 or any extension thereof granted by the County in writing;

8.2.1.2 If MODEL 1 materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.

8.2.2 If, after termination, it is determined for any reason whatsoever that MODEL 1 was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with Section 7.1 above.

8.3 Upon termination of this Agreement, County shall compensate MODEL 1 in accordance with Section 3, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. MODEL 1's final invoice for said services will be presented to and paid by County in the same manner set forth in Section 3 above.

8.4 If County terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to MODEL 1.

Section 9. Ownership and Reuse of Documents

All documents, data, reports, research, graphic presentation materials, etc., developed by MODEL 1 as a part of its work under this Agreement, shall become the property of County upon completion of this Agreement, or in the event of termination or cancellation thereof, at the time of payment under Section 3 for work performed. MODEL 1 shall promptly furnish all such data and material to County on request.

Section 10. Inspection of Books and Records

MODEL 1 will permit County, or any duly authorized agent of County, to inspect and examine the books and records of MODEL 1 for the purpose of verifying the amount of work performed by MODEL 1. County's right to inspect survives the termination of this Agreement for a period of four years.

Section 11. Insurance

Prior to commencement of the Services, MODEL 1 shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. MODEL 1 shall provide certified copies of insurance endorsements and/or policies if requested by County.

MODEL 1 shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. MODEL 1 shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

1. Workers Compensation in accordance with the laws of the State of Texas. Substitutes to genuine Workers' Compensation Insurance will not be allowed.
2. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
3. Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
4. Business Automobile Liability coverage applying to owned, non-owned and hired automobiles with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.

Section 12. Indemnity

MODEL 1 SHALL INDEMNIFY AND DEFEND COUNTY AGAINST ALL LOSSES, LIABILITIES, CLAIMS, CAUSES OF ACTION, AND OTHER EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF MODEL 1, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF MODEL 1 OR ANY OF MODEL 1'S AGENTS, SERVANTS OR EMPLOYEES. THE PARTIES AGREE THAT THIS INDEMNIFICATION PROVISION SHALL APPLY DURING THE PERFORMANCE OF SERVICES AS WELL AS DURING THE PERORMANCE OF ANY CONTINUING OBLIGATIONS THAT MAY EXIST (IF ANY) AFTER THE EXPIRATION OF THIS AGREEMENT.

Section 13. Confidential and Proprietary Information

13.1 MODEL 1 acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by MODEL 1 or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by MODEL 1 shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by MODEL 1) publicly known or

is contained in a publicly available document; (b) is rightfully in MODEL 1's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of MODEL 1 who can be shown to have had no access to the Confidential Information.

13.2 MODEL 1 agrees to hold Confidential Information in strict confidence, using at least the same degree of care that MODEL 1 uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. MODEL 1 shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, MODEL 1 shall advise County immediately in the event MODEL 1 learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and MODEL 1 will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or MODEL 1 against any such person. MODEL 1 agrees that, except as directed by County, MODEL 1 will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, MODEL 1 will promptly turn over to County all documents, papers, and other matter in MODEL 1's possession which embody Confidential Information.

13.3 MODEL 1 acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. MODEL 1 acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.

13.4 MODEL 1 in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

13.5 MODEL 1 expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Consultant shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such

information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

Section 14. Independent Contractor

14.1 In the performance of work or services hereunder, MODEL 1 shall be deemed an independent MODEL 1, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of MODEL 1 or, where permitted, of its subcontractors.

14.2 MODEL 1 and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

Section 15. Notices

15.1 Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

15.2 Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

County: Fort Bend County Public Transportation Department
 Attn: Director
 301 Jackson Street
 Richmond, Texas 77469

With a copy to: Fort Bend County
 Attn: County Judge
 401 Jackson Street, 1st Floor
 Richmond, Texas 77469

MODEL 1: Model 1 Commercial Vehicles, Inc.

15.3 A Notice is effective only if the party giving or making the Notice has complied with subsections 14.1 and 14.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

15.3.1 If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.

15.3.2 If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

Section 16. Compliance with Laws

MODEL 1 shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, MODEL 1 shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

Section 17. Performance Warranty

17.1 MODEL 1 warrants to County that MODEL 1 has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and MODEL 1 will apply that skill and knowledge with care and diligence to ensure that the services provided hereunder will be performed and delivered in accordance with the highest professional standards.

17.2 MODEL 1 warrants to County that the services will be free from material errors and will materially conform to all requirements and specifications contained herein.

17.3 MODEL 1 acknowledges and fully understands the specifications and requirements listed in the attached Exhibit B. MODEL 1 warrants to the County that services rendered will conform to all requirements listed in Exhibit B.

Section 18. Assignment

18.1 Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner.

18.2 Neither party may delegate any performance under this Agreement.

18.3 Any purported assignment of rights or delegation of performance in violation of this Section is void.

Section 19. Applicable Law

The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right

to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity.

Section 20. Successors and Assigns

County and MODEL 1 bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

Section 21. Third Party Beneficiaries

This Agreement does not confer any enforceable rights or remedies upon any person other than the parties.

Section 22. Severability

If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

Section 23. Publicity

Contact with citizens of Fort Bend County, media outlets, or governmental agencies shall be the sole responsibility of County. Under no circumstances whatsoever, shall MODEL 1 release any material or information developed or received in the performance of the services hereunder without the express written permission of County, except where required to do so by law.

Section 24. Additional Warranties

24.1 Pollution: MODEL 1 certifies that the vehicle meets all Federal Noise and Exhaust emission standards.

24.2 Requirements: The manufacturer's standard warranty for body and chassis must be provided as well as warranty for rust-proofing and lift. Warranties must be effective the day the buyer receives and signs delivery acceptance.

24.3 MODEL 1 acknowledges County's right to secure a third-party, independent inspector who shall be present during the build process. MODEL 1 shall make all necessary changes as requested by County based on the inspector's findings and in accordance with Exhibit A.

24.4 Open Architecture: MODEL 1 must comply with all Federal, state and local requirements, standards and regulations as it relates to the system and subsystems, including, but not limited to fare boxes, destination signs, cameras, and AVL systems.

24.5 The manufacturer shall warrant all parts and labor for one year from the date of delivery with an extended warranty of five (5) years for the engine and transmission. The MODEL 1 shall assume sole responsibility for the entire vehicle as to warranty and after-sales parts and service. This includes the pick-up and delivery of the vehicle.

24.6 MODEL 1 must be able to provide warranty service for the vehicle in the area in which it is to be used. MODEL 1s located outside this area must be able to arrange an agreement with one or more authorized distributors located within 50 miles of the service area or within Fort Bend County. This requirement is not meant to restrict responses but to ensure the availability of warranty services.

Section 25. Certifications

The MODEL 1 agrees to abide by the certifications, acknowledgments and requirements included in Attachment A which includes MODEL 1's signed Certification Forms. MODEL 1 shall include these requirements in each subcontract financed in whole or in part by this Agreement.

Section 26. Federal Clauses

MODEL 1 understands and acknowledges that this Agreement may be totally or partially funded with federal and state funds. As a condition of receiving these funds, MODEL 1 represents that it is and will remain in compliance with all federal and or state terms in this Section, as well as, all conditions, certifications, and acknowledgements included in MODEL 1's Response included in Attachment A. These terms flow down to all third party MODEL 1s and their subcontracts at every tier, unless a particular award term or condition specifically indicates otherwise. The MODEL 1 shall require that these clauses shall be included in each covered transaction at any tier, unless a particular award term or condition specifically indicates otherwise.

26.1 Access for Individuals with Disabilities (ADA Access).

MODEL 1 and any subcontractors agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The MODEL 1 also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, and any subsequent amendments to these laws. In addition, the MODEL 1 agrees to comply with

applicable implementing Federal regulations and directives and any subsequent amendments thereto, as follows:

- (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. ATBCB)/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. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- (7) U.S. EEOC, "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) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194; FTA regulations, "Transportation for Elderly and Handicapped Persons", 49 C.F.R. Part 609; and
- (10) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. Part 39;
- (11) FTA Circular 4710.1, "Americans with Disabilities Act: Guidance"; and
- (12) Federal civil rights and nondiscrimination directives implementing the foregoing regulations, except to the extent the Federal Government determines otherwise in writing.

26.2 Access to Records and Reports.

MODEL 1 agrees to provide County, 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 MODEL 1 which are directly pertinent to the Agreement for the purposes of making audits, examinations, excerpts and transcriptions. MODEL 1 also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO MODEL 1 access to MODEL 1'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. MODEL 1 agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

MODEL 1 agrees to comply and will require all subcontractors of any tier to comply with the record retention requirements in accordance with 2 C.F.R. 200.333. MODEL 1 agrees to retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, all books, records, accounts, statistics, leases, subcontracts, arrangements other third party arrangements of any type, reports, and supporting materials related to those records required under the Agreement for a period of not less than three years after the date of termination or expiration of the Agreement, except in the event of litigation or settlement of claims arising from the performance of the Agreement, in which case MODEL 1 agrees to maintain same until County, 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.

26.3 Breaches and Disputes.

MODEL 1 and the County shall attempt in good faith to resolve promptly any dispute arising out of or relating to the Agreement by negotiation between the parties. Disputes arising in the performance of this Agreement that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the County. This decision shall be final and conclusive unless within ten [10] days from the date of receipt of its copy, MODEL 1 mails or otherwise furnishes a written appeal to the County. In connection with any such appeal, MODEL 1 shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the County shall be binding upon MODEL 1 and MODEL 1 shall abide by the decision. This clause shall flow-down to all subcontractors.

Performance During Dispute - Unless otherwise directed by County, MODEL 1 shall continue performance under the Agreement while matters in dispute are being resolved.

The requirement to seek mediation may be a condition required before filing an action at law or in equity, unless to do so would prevent either party from seeking relief in a court of law or equity under any applicable statute of limitations.

Claims for Damages - Should either party to the Agreement 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 therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

Rights and Remedies - The duties and obligations imposed by the Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the County or MODEL 1 shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

MODEL 1 shall place this clause in all subcontracts for more than the small purchase currently set at \$50,000 by the County, to address administrative, contractual, or legal remedies in instances

where MODEL 1s violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

26.4 Bus Testing.

MODEL 1 agrees to comply with 49 U.S.C. A 5323(c) and FTA's implementing regulation at 49 CFR Part 665 and shall perform the following:

- (1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient at a point in the procurement process specified by the recipient which will be prior to the recipient's final acceptance of the first vehicle;
- (2) A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public;
- (3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to recipient's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing
- (4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

26.5 Buy America.

The following clause only applies to contracts for \$150,000 or more involving rolling stock or materials and supplies.

MODEL 1 and any subMODEL 1 agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, 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 FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content, subject to the Amendment below.

The FAST Act, effective October 1, 2015 amended the Buy America waiver for rolling stock to provide for a phased increase in the domestic content requirement for rolling stock to more than 65 percent for FY2018 and FY2019 and to more than 70 percent in FY2020 and beyond. The new provisions apply based on the date of delivery of the rolling stock. Domestic content requirement over the phase of the contract period shall be the provision applicable to the year of delivery of rolling stock procured under this contract.

Unlike rolling stock, manufactured goods must be 100-percent produced in the U.S. A manufactured good is considered produced in the United States if: (1) All of the manufacturing processes for the product take place in the United States; and (2) All of the components of the product are of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR 661.5(d). FTA has issued a number of [Buy America guidance letters](#) discussing manufactured goods.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

26.6 Cargo Preference-Use of United States-Flag Vessels.

The following clause only applies to contracts that involve transit by ocean for rolling stock or materials and supplies.

MODEL 1 and any subcontractor agrees: (a) to use privately owned US -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 Agreement to the extent such vessels are available at fair and reasonable rates for US-Flag commercial vessels; and (b) to furnish within 20 working days following the date of loading for shipments originating within the US or within 30 working days following the date of loading for shipments originating outside the US, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through MODEL 1 in the case of a subMODEL 1's bill-of-lading).

26.7 Civil Rights Requirements.

The following clauses apply to all contractors and subcontractors.

Nondiscrimination in Federal Public Transportation Programs - 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, MODEL 1 agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion,

national origin, sex, sexual orientation, gender identity, age, status as a parent or disability. In addition, MODEL 1 agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

Equal Employment Opportunity - The following equal employment opportunity requirements apply to the Agreement:

Race, Color, Creed, National Origin, Sex

MODEL 1 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, disability, age, sexual orientation, gender identity, or status as a parent. 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, MODEL 1 agrees to comply with any implementing requirements FTA may issue.

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, MODEL 1 agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, MODEL 1 agrees to comply with any implementing requirements FTA may issue.

Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, MODEL 1 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, MODEL 1 agrees to comply with any implementing requirements FTA may issue.

MODEL 1 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.

26.8 Clean Air.

The following clause only applies to contracts of \$150,000 or more.

MODEL 1 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 . MODEL 1 agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. MODEL 1 agrees it will not use any violating facilities. It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities". It will report violations of use of prohibited facilities to FTA.

MODEL 1 also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

26.9 Clean Water.

The following clause only applies to contracts of \$150,000 or more.

MODEL 1 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. MODEL 1 agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. MODEL 1 agrees it will not use any violating facilities. It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities". It will report violations of use of prohibited facilities to FTA.

MODEL 1 also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

26.10 Contract Work Hours and Safety Standards Act.

The following clause only applies to contracts of \$100,000 or more involving rolling stock.

MODEL 1 shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 C.F.R. part 5. Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. part 5).

- (1) Overtime requirements - No MODEL 1 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 MODEL 1 and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such MODEL 1 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 or the maximum allowed by

law 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 – County 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 MODEL 1 or subcontractor under any such contract or any other Federal contract with the same prime MODEL 1, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime MODEL 1, such sums as may be determined to be necessary to satisfy any liabilities of such MODEL 1 or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts - MODEL 1 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 MODEL 1 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.
- (5) Payrolls and basic records - Payrolls and related basic records shall be maintained by MODEL 1 during the course of the work and preserved for three years thereafter for all laborers and mechanics working at the worksite (or under the United States Housing Act of 1937 or the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address and social security number of each worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid.

Whenever the Secretary of Labor has found under 29 C.F.R. 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, MODEL 1 shall maintain records showing that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and records of the costs anticipated or actual costs incurred in providing such benefits. MODEL 1s employing apprentices or trainees under approved programs shall maintain written evidence of registration of apprenticeship programs, certification of trainee programs, registration of the apprentices and trainees, and ratios & wage rates prescribed in applicable programs.

- (6) The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. A federally assisted construction contract must exceed \$150,000 before these construction safety requirements apply to that contract.

26.11 Disadvantaged Business Enterprise (DBE).

The Agreement 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 including 49 C.F.R. Part 26, Section 1101(b) of the FAST Act (23 U.S.C. § 101 note). The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. **A separate contract goal has not been established for this procurement.** MODEL 1 will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as “Disadvantaged Business Enterprises” (DBEs).

MODEL 1, and each third party subcontractor must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, and third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 C.F.R. part 26.

MODEL 1 and each Third Party Subcontractor must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S.FTA-assisted subagreements, third party contracts, and third party subcontracts, as applicable.

Failure by the Subrecipient and any of its Third Party MODEL 1s or Third Party Subcontractors to carry out the requirements of this subparagraph 12.e(4)(b) is a material breach of this subagreement, third party contract, or third party subcontract, as applicable which may result in the termination of the Agreement or such other remedy as County deems appropriate, which may include, but is not limited to: (1) withholding monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying MODEL 1 from future bidding as non-responsible. Each subcontract MODEL 1 signs with a subcontractor must include the assurance in this paragraph (see 49 C.F.R. 26.13(b)).

The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

MODEL 1 is required to pay its subcontractors performing work related to the Agreement for satisfactory performance of that work no later than 30 days after MODEL 1's receipt of payment for that work from County. In addition, MODEL 1 is required to return any retainage payments

to those subcontractors within 30 days after the subcontractor's work related to the Agreement is satisfactorily completed.

MODEL 1 must promptly notify County whenever a DBE subcontractor performing work related to the Agreement is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. MODEL 1 may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without the prior written consent of County.

26.12 Distracted Driving.

MODEL 1 and any subcontractors agree to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle MODEL 1 owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Award, or when performing any work for or behalf of the County.

26.13 Environmental Justice.

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

26.14 Environmental Protections.

MODEL 1 and any subcontractors agree to, and assures that it will, comply with all applicable environmental and resource use laws, regulations, and requirements, and follow applicable guidance, now in effect or that may become effective in the future, including state and local laws, ordinances, regulations, and requirements and follow applicable guidance.

26.15 Notice to Third Party Participants.

Federal requirements that apply to the County may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Award Agreement including any information incorporated by reference and made part of that Award Agreement will apply to MODEL 1 and any other Third-Party Agreements.

26.16 Fly America.

The following clause only applies to contracts involving foreign air transportation or travel.

MODEL 1 and any subcontractors agree to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 C.F.R. Part 301-10, which provide that recipients and sub-recipients of Federal funds and their MODEL 1s 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. MODEL 1 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. MODEL 1 agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

26.17 FTA Interest.

This clause does not flow-down to subcontractors.

MODEL 1 understands and agrees that FTA has a vested interest in the settlement of any violation of federal law, regulation, or disagreement involving federal funds used towards this Agreement, including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise."

26.18 Government-wide Debarment and Suspension.

The following clause only applies to contracts of \$25,000 or more.

MODEL 1 and any subcontractors shall comply and facilitate compliance with U.S. FTA regulations, Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, MODEL 1 shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- (1) Debarred from participation in any federally assisted Award;
- (2) Suspended from participation in any federally assisted Award;
- (3) Proposed for debarment from participation in any federally assisted Award;
- (4) Declared ineligible to participate in any federally assisted Award;
- (5) Voluntarily excluded from participation in any federally assisted Award; or

(6) Disqualified from participation in any federally assisted Award.

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

"The Certification in this clause is a material representation of fact relied upon by the County. If it is later determined by the County that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to County, 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 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, 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."

26.19 Incorporation of FTA Terms.

The provisions in this Section include, in part, certain Standard Terms and Conditions required by FTA, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by FTA, 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 the Agreement. MODEL 1 and any subcontractors shall not perform any act, fail to perform any act, or refuse to comply with any County requests which would cause County to be in violation of the FTA terms and conditions.

26.20 Lobbying.

The following clause must be included in all subcontracts for \$100,000 or more.

MODEL 1s and any subcontractors who apply or bid for an award of \$100,000 or who are awarded a contract for \$100,000 or more shall file the certification required by 49 C.F.R. 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 County.

26.21 No Government Obligation to Third Parties.

County and MODEL 1 acknowledge and agree that, 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

the Agreement and shall not be subject to any obligations or liabilities to County, MODEL 1, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the contract. MODEL 1 agrees to include this 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 subcontractor who will be subject to its provisions.

26.22 Notification to FTA.

MODEL 1 understands that if a current or prospective legal matter that may affect the Federal Government emerges, the County must promptly notify the FTA Chief Counsel, or FTA Regional Counsel for the Region in which the County is located. (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason. (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the federal funds used towards this Agreement, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

26.23 Duty to Report False Claims.

If the County has credible evidence that MODEL 1 or other person has submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct involving federal assistance, the County must promptly notify the U.S. FTA Inspector General, in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the County is located.

26.24 Pre-Award and Post Delivery Audit.

Pre-Award and Post-Delivery Audit Requirements - MODEL 1 and any subcontractors agrees to comply with 49 U.S.C. § 5323(l) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the following certifications:

(1) Buy America Requirements: MODEL 1 shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

(2) Solicitation Specification Requirements: MODEL 1 shall submit evidence that it will be capable of meeting the bid specifications.

(3) Federal Motor Vehicle Safety Standards (FMVSS): MODEL 1 shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2)

manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

26.25 Program Fraud and False or Fraudulent Statements and Related Acts.

MODEL 1 and any subcontractors acknowledge 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 contract, MODEL 1 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 Agreement or the FTA assisted project for which the Agreement work is being performed. In addition to other penalties that may be applicable, MODEL 1 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 MODEL 1 to the extent the Federal Government deems appropriate.

MODEL 1 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 MODEL 1, to the extent the Federal Government deems appropriate.

MODEL 1 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 subcontractor who will be subject to the provisions.

26.26 Prompt Payment.

Under this contract, the prime MODEL 1 agrees to pay each subcontractor for satisfactory performance of its contract within 30 days from the receipt of each payment the prime MODEL 1 receives from the County. The prime MODEL 1 further agrees to full payment of retainage to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the County. This clause applies to both DBE and non-DBE subcontracts.

26.27 Resource Recovery.

This clause only applies to procurements of \$10,000 or more per year for items designated by EPA.

MODEL 1 and any subcontractors agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials

practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

26.28 Safe Operation of Motor Vehicles (Seat Belt).

MODEL 1 and any subcontractors shall encourage their employees and other personnel that operate company-owned vehicles, company rented-vehicles, or personally operated vehicles to adopt on-the-job seat belt policies and programs.

MODEL 1 agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle MODEL 1 owns, leases, or rents, or a privately-owned vehicle when performing any work for this Agreement.

26.29 Termination.

MODEL 1 understands that all contracts in excess of \$10,000, including subcontracts, must address termination for cause and for convenience by MODEL 1 including the manner by which it will be effected and the basis for settlement.

26.30 Transit Vehicle Manufacturer.

MODEL 1 and each third party subcontractor must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, and third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 C.F.R. part 26. MODEL 1 and each Third Party Subcontractor must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S.FTA-assisted subagreements, third party contracts, and third party subcontracts, as applicable. Failure by the Subrecipient and any of its Third Party MODEL 1s or Third Party Subcontractors to carry out the requirements of this subparagraph is a material breach of this subagreement, third party contract, or third party subcontract, as applicable, and the following remedies, or such other remedy as the County deems appropriate, include, but are not limited to, withholding monthly progress payments; assessing sanctions; liquidated damages; and/or disqualifying the Subrecipient, Third Party MODEL 1, or Third Party Subcontractor from future bidding as non-responsible.

26.31 Change Orders.

Verbal change orders to the Agreement are not permitted. No changes in the scope, specifications, character, or complexity of work shall be made by MODEL 1 without first receiving written approval by the Fort Bend County Public Transportation Director or their designee

properly defining and limiting any such change. MODEL 1 shall be liable for all costs resulting from and/or for satisfactorily correcting any specification change not properly ordered by written modification to the Contract and signed by the County.

Within 14 calendar days after MODEL 1's receipt of the written change order request for modification of the Contract, MODEL 1 shall submit to County a detailed price schedule proposal for the work to be performed. This proposal shall be accepted or modified by negotiation between MODEL 1 and the County. At the time both parties shall execute a detailed Contract modification in writing. Disagreements that cannot be resolved within negotiations shall be resolved in accordance with the contract disputes clause.

It is distinctly understood and agreed that no claim for payment for work done or materials furnished by MODEL 1 outside of these parameters shall be paid by County. Any such services or materials furnished by MODEL 1 without such written order shall be at the risk, cost and expense of MODEL 1, and no claim for compensation for any such services or materials shall be made.

All such changes, which are mutually agreed upon by and between all parties, shall be incorporated in written amendments to the Contract. All such amendments shall state any increase or decrease in the amount of the compensation due to County for the change in the scope.

26.32 Force Majeure

MODEL 1 agrees that neither the County nor MODEL 1 shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("Impacted Party") control, including, but not limited to, the following force majeure events ("Force Majeure Events"): (a) acts of God; (b) a natural disaster (fires, explosions, earthquakes, hurricane, flooding, storms, explosions, infestations), epidemic, or pandemic; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances; and (i) shortage of adequate power or transportation facilities. The Impacted Party shall give notice in writing within three (3) business days of the Force Majeure Event to the other party disclosing the estimated length of the delay and the cause of the delay. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of ten (10) days following Notice given by it, the other party may thereafter terminate this Agreement upon notice.

26.32.1 Acceptance of late deliveries will not be deemed a waiver of County's right to hold MODEL 1 liable for any resulting loss or damage, nor will it act as a

modification of MODEL 1's obligation to make future deliveries in accordance with the delivery dates set forth in Attachment A.

26.32.2 If, at any time, MODEL 1 believes it may be unable to comply with the delivery dates set forth in Exhibit A, then MODEL 1 must immediately notify County in writing of the probable length of any anticipated delay and the reasons for it. MODEL 1 will continue to notify County of any material change in the situation. In the event of such notification or of an actual failure by MODEL 1 to comply with the delivery dates, County may utilize all remedies available at law.

26.33 Federal Tax Liability

MODEL 1 and any subcontractors certifies that they do not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

26.34 Domestic Preferences for Procurements.

As appropriate and to the extent consistent with law, MODEL 1 and any subcontractor shall to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products procured with federal funds. For purposes of this clause, (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Section 27. Conflict

If there is a conflict between this Agreement and any attached item, the provisions of this Agreement shall prevail.

Section 28. Captions

The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

Section 29. Certain State Law Requirements for Contracts.

For purposes of Section 2252.152, 2271.002, and 2274.002, Texas Government Code, as amended, MODEL 1 hereby verifies that MODEL 1 and any parent company, wholly owned subsidiary, majority-owned subsidiary, and affiliate:

29.1 Unless affirmatively declared by the United States government to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization, is not identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 806.051, 807.051, or 2252.153 of the Texas Government Code.

29.2 If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, MODEL 1 does not boycott Israel and is authorized to agree in such contracts not to boycott Israel during the term of such contracts. "Boycott Israel" has the meaning provided in section 808.001 of the Texas Government Code.

29.3 If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, MODEL 1 does not boycott energy companies and is authorized to agree in such contracts not to boycott energy companies during the term of such contracts. "Boycott energy company" has the meaning provided in section 809.001 of the Texas Government Code.

29.4 If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, MODEL 1 does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and is authorized to agree in such contracts not to discriminate against a firearm entity or firearm trade association during the term of such contracts. "Discriminate against a firearm entity or firearm trade association" has the meaning provided in section 2274.001(3) of the Texas Government Code. "Firearm entity" and "firearm trade association" have the meanings provided in section 2274.001(6) and (7) of the Texas Government Code.

Section 30. Human Trafficking

BY ACCEPTANCE OF CONTRACT, MODEL 1 ACKNOWLEDGES THAT FORT BEND COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.

Section 31. Entire Agreement

This executed instrument is understood and intended to be the final expression of the parties' agreement and is a complete and exclusive statement of the terms and conditions with respect thereto, superseding all prior agreements or representations, oral or written, and all other communication between the parties relating to the subject matter of this agreement. Any oral representations or modifications concerning this instrument shall be of no force or effect excepting a subsequent modification in writing signed by all the parties hereto.

{ Execution Page to Follow }

IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts

FORT BEND COUNTY

KP George
KP George, County Judge

MODEL 1 COMMERCIAL VEHICLES, INC.

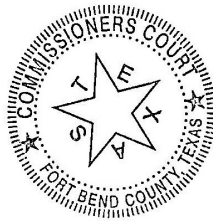
Jeffrey E. Johnson
Authorized Agent- Signature

Jeffrey E. Johnson
Authorized Agent- Printed Name

Public Sector Sales Manager
Title

March 14, 2025
Date

April 8, 2025
Date



ATTEST:

Laura Richard
Laura Richard, County Clerk

REVIEWED by:

Perri L. D'Armond
Perri L. D'Armond
Fort Bend County Public Transportation Director

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ 1,374,523.20 to accomplish and pay the obligation of Fort Bend County under this contract.

Robert E. Sturdivant
Robert E. Sturdivant, County Auditor

Exhibit A: State of Oklahoma's Special Provisions for Procurement of Capital Equipment in Excess of \$100,000 using Federal Funds

Exhibit B: Vendor Price List

i:\agreements\2024 agreements\public transportation\model 1 commercial vehicles inc. (24-pt-100718)\updated bus agreement (24-pt-100718).docx bo

EXHIBIT A



TRANSIT PROGRAMS DIVISION

**FTA'S
SPECIAL PROVISIONS
FOR THE PROCUREMENT OF CAPITAL EQUIPMENT
WITH AN ESTIMATED CUMULATIVE COST
IN EXCESS OF \$100,000**

STATEMENT OF FEDERAL PARTICIPATION

THIS PROCUREMENT IS DEPENDENT UPON THE AVAILABILITY OF FEDERAL FUNDS THROUGH THE FEDERAL TRANSIT ADMINISTRATION (FTA)

***PAGES 2 THRU 15 OF THIS DOCUMENT ARE TO BE COMPLETED BY
BIDDER/VENDOR***

***PAGES 18 THRU 24 OF THIS DOCUMENT ARE TO BE COMPLETED BY ODOT AT
TIME OF THE BID AWARD***

***PAGES 26 THRU 32 ARE TO BE COMPLETED BY THE PURCHASER AT THE
TIME OF VEHICLE DELIVERY***

**SPECIAL PROVISIONS FOR THE PROCUREMENT OF CAPITAL EQUIPMENT
USING FEDERAL FUNDS**

**THE FOLLOWING REQUIREMENTS AND CONDITIONS ARE INCLUDED AS AN
ESSENTIAL PART OF THE SPECIFICATIONS ATTACHED HERETO.**

SECTION I. FOR ALL BIDS:

**FMVSS CERTIFICATION - 49 CFR 571 Part D
(Circle all applicable standard #s)**

#	Title	#	Title
101	#*Controls and Displays	102	#*Transmission shift lever sequence, starter, interlock, transmission braking effect
103	#*Windshield defrost and defogging system	104	#*Windshield wiping and washing system.
105	#*Hydraulic brake system.	106	#*Brake hoses
107	#*Reflecting surfaces	108	#*Lamps, reflective devices, and assoc. equip.
109	#New pneumatic tires	110	#Tire selection and rims.
111	#*Rearview mirrors	112	#*Headlamps concealment devices.
113	#*Hood latch system	114	#Theft Protection (not for walk-in vans)
115	#*VIN -basic requirements.	116	#*Motor vehicle brake fluids.
117	#Re-treaded pneumatic tires (to be used on rear wheels only)	118	#Power-operated window, partition, roof panel system (GVWR < 10K)
119	*New pneumatic tires for vehicles other than passenger cars	120	*Tire selection & rims for vehicles other than passenger cars
121	*Air brake system	124	#*Accelerator control system.
129	#New non-pneumatic tires for passenger cars.	201	#@Occupant protection in interior impact
202	#@Head restraints	203	#@Impact protect, driver steering control system
204	#*Steering control rearward displace (not walk-in vans)	205	#*Glazing materials
206	#Doors, locks, and door retention components.	207	#*Seating system
208	#*Occupant crash protection	209	#*Seat belt assemblies.
210	#@Seat belt assembly anchorages.	211	#Wheels, nuts, wheel discs, and hub caps
212	#@Windshield mounting	213	#*Child restraint system.
214	#@Side impact protection (not walk-in vans)	217	*Bus emergency. exits / window retention & release
219	#@Windshield zone intrusion	220	*School Bus rollover protection
301	#@Fuel system integrity (+School Bus >10K GVWR)	302	#*Flammability of interior materials.

The undersigned **BIDDER/VENDOR** hereby certifies that all vehicles furnished meet the **FMVSS IAW 49 CFR 571**.

Name of Company Creative Bus Sales, Inc.	Date 8/9/2019
Printed Name of Person Signing Form Marcus Hoffman	Signature 

*Bus

@Bus with GVWR below 10,000 lbs.

#Passenger Car

In submitting this bid, the undersigned **BIDDER/VENDOR** as noted in Section III - Certification to Purchaser, certifies and agrees to the following clauses, assurances and certifications.

The **BIDDER/VENDOR** agrees to include these requirements in subcontracts financed in whole or in part by Federal Transit Administration funding. The bidder/vendor must execute all certifications below.

A. No Federal Government Commitment or Liability to Third Parties

B.A.1. Except as the Federal Government expressly consents in writing, the Recipient agrees that:

B.A.1.1. The Federal Government does not and shall not have any commitment or liability related to the Underlying Agreement, to any Third Party Participant at any tier, or to any other person or entity that is not a party (FTA or the Recipient) to the Underlying Agreement, and

B.A.1.2. Notwithstanding that the Federal Government may have concurred in or approved any Solicitation or Third Party Agreement at any tier that may affect the Underlying Agreement, the Federal Government does not and shall not have any commitment or liability to any Third Party Participant or other entity or person that is not a party (FTA or the Recipient) to the Underlying Agreement.

B. False or Fraudulent Statements or Claims.

B.B.1. Civil Fraud. The Recipient acknowledges and agrees that:

B.B.1.1. Federal laws, regulations, and requirements apply to itself and its Underlying Agreement, including the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31.

B.B.1.2. By executing the Underlying Agreement, the Recipient certifies and affirms to the Federal Government the truthfulness and accuracy of any claim, statement, submission, certification, assurance, affirmation, or representation that the Recipient provides to the Federal Government.

B.B.1.3. The Federal Government may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Recipient presents, submits, or makes available any false, fictitious, or fraudulent information.

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

C. Access to Recipient and Third Party Participant Records.

B.C.1. The Recipient agrees and assures that each Subrecipient, if any, will agree to:

B.C.1.1. Provide, and require its Third Party Participants at each tier to provide, sufficient access to inspect and audit records and information related to its Award, the accompanying Underlying Agreement, and any Amendments thereto to the U.S. Secretary of Transportation or the Secretary's duly authorized representatives, to the Comptroller General of the United States, and the Comptroller General's duly authorized representatives, and to the Recipient and each of its Subrecipients,

B.C.1.2. Permit those individuals listed above to inspect all work and materials related to its Award, and to audit any information related to its Award under the control of the Recipient or Third Party Participant within books, records, accounts, or other locations, and

B.C.1.3. Otherwise comply with 49 U.S.C. § 5325(g), and federal access to records requirements as set forth in the applicable U.S. DOT Common Rules.

D. FEDERAL CHANGES

B.D.1. The Recipient shall at all times comply with all applicable Federal regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement as amended or promulgated from time to time during the term of this contract.

E. Civil Rights Requirements

B.E.1. The Recipient agrees that it must comply with applicable federal civil rights laws, regulations, and requirements, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or a federal program, including the Tribal Transit Program or the Indian Tribe Recipient, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service.

- B.E.2.** Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that it and each Third Party Participant, will:
- B.E.2.1.** Prohibit discrimination on the basis of race, color, religion, national origin, sex (including gender identity), disability, or age.
- B.E.3.** Prohibit the:
- B.E.3.1.** Exclusion from participation in employment or a business opportunity for reasons identified in 49 U.S.C. § 5332,
- B.E.3.2.** Denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332, or
- B.E.3.3.** Discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in.
- B.E.4.** Follow:
- B.E.4.1.** The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance, and other applicable federal guidance that may be issued, but
- B.E.4.2.** FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its Underlying Agreement supported with federal assistance under the Tribal Transit Program.
- B.E.5.** Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant, will:
- B.E.5.1.** Prohibit discrimination on the basis of race, color, or national origin,
- B.E.6.** Comply with:
- B.E.6.1.** Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq.,
- B.E.6.2.** U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and
- B.E.6.3.** Federal transit law, specifically 49 U.S.C. § 5332, and
- B.E.7.** Follow:
- B.E.7.1.** The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance,
- B.E.7.2.** U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and
- B.E.7.3.** All other applicable federal guidance that may be issued.
- B.E.8.** Equal Employment Opportunity.
- B.E.8.1.** Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit, discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin, and:
- B.E.8.2.** Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.,
- B.E.8.3.** Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs,
- B.E.8.4.** Comply with federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement,
- B.E.8.5.** FTA Circular 4704.1 "Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients," and
- B.E.8.6.** Follow other federal guidance pertaining to EEO laws, regulations, and requirements, and prohibitions against discrimination on the basis of disability,
- B.E.8.7.** Specifics. The Recipient agrees to, and assures that each Third Party Participant will:
- B.E.8.8.** Prohibited Discrimination. Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their race, color, religion, national origin, disability, age, sexual orientation, gender identity, or status as a parent, as provided in Executive Order No. 11246 and by any later Executive Order that amends or supersedes it, and as specified by U.S. Department of Labor regulations,
- B.E.8.9.** Affirmative Action. Take affirmative action that includes, but is not limited to:

- B.E.8.9.1. Recruitment advertising, recruitment, and employment,
- B.E.8.9.2. Rates of pay and other forms of compensation,
- B.E.8.9.3. Selection for training, including apprenticeship, and upgrading, and
- B.E.8.9.4. Transfers, demotions, layoffs, and terminations, but
- B.E.8.10.** Indian Tribe. Recognize that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer," and
- B.E.8.11.** Equal Employment Opportunity Requirements for Construction Activities. Comply, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), with:
- B.E.8.12.** U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and
- B.E.8.13.** Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.

F. Incorporation Of Federal Transit Administration (FTA) Terms

- B.F.1.** 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 the most current FTA Circular 4220, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Consultant shall not perform any act, fail to perform any act, or refuse to comply with any NCTD requests which would cause NCTD to be in violation of the FTA terms and conditions.

G. Energy Conservation

- B.G.1.** The Recipient agrees to, and assures that its Subrecipients, if any, will comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321 *et seq.*, and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. part 622, subpart C.

H. Right of the Federal Government to Terminate

- B.H.1.** Justification. After providing written notice to the Recipient, the Recipient agrees that the Federal Government may suspend, suspend then terminate, or terminate all or any part of the federal assistance for the Award if:
 - B.H.1.1.** The Recipient has failed to make reasonable progress implementing the Award,
 - B.H.1.2.** The Federal Government determines that continuing to provide federal assistance to support the Award does not adequately serve the purposes of the law authorizing the Award, or
 - B.H.1.3.** The Recipient has violated the terms of the Underlying Agreement, especially if that violation would endanger substantial performance of the Underlying Agreement.
- B.H.2.** Financial Implications. In general, termination of federal assistance for the Award will not invalidate obligations properly incurred before the termination date to the extent that the obligations cannot be canceled. The Federal Government may recover the federal assistance it has provided for the Award, including the federal assistance for obligations properly incurred before the termination date if it determines that the Recipient has misused its federal assistance by failing to make adequate progress, failing to make appropriate use of the Project property, or failing to comply with the Underlying Agreement, and require the Recipient to refund the entire amount or a lesser amount, as the Federal Government may determine including obligations properly incurred before the termination date.
- B.H.3.** Expiration of the Period of Performance. Except for a Full Funding Grant Agreement, expiration of any period of performance established for the Award does not, by itself, constitute an expiration or termination of the Award; FTA may extend the period of performance to assure that each Formula Project or related activities and each Project or related activities funded with "no year" funds can receive FTA assistance to the extent FTA deems appropriate.

I. Debarment and Suspension

- B.I.1.** The Recipient agrees to the following:
 - B.I.1.1.** It will comply with the following requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200.
 - B.I.1.2.** It will not enter into any arrangement to participate in the development or implementation of the Underlying Agreement with any Third Party Participant that is debarred or suspended except as authorized by:
 - B.I.1.2.1.** U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200,

- B.I.1.2.2. U.S. OMB regulatory guidance, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto,
- B.I.1.2.3. Executive Orders No. 12549, "Uniform Suspension, Debarment or Exclusion of Participants from Procurement or Nonprocurement Activity," October 13, 1994, 31 U.S.C. § 6101 note, as amended by Executive Order No. 12689, "Debarment and Suspension," August 16, 1989, 31 U.S.C. § 6101 note, and
- B.I.1.2.4. Other applicable federal laws, regulations, or guidance regarding participation with debarred or suspended Recipients or Third Party Participants.
- B.I.1.3.** It will review the U.S. GSA "System for Award Management – Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs," <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200.
- B.I.1.4.** It will include, and require each Third Party Participant to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:
 - B.I.1.4.1. Complies with federal debarment and suspension requirements, and
 - B.I.1.4.2. Reviews the SAM at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200.
- B.I.1.5.** If the Recipient suspends, debar, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the:
 - B.I.1.5.1. FTA Regional Counsel for the Region in which the Recipient is located or implements the Underlying Agreement,
 - B.I.1.5.2. FTA Headquarters Manager that administers the Grant or Cooperative Agreement, or
 - B.I.1.5.3. FTA Chief Counsel.

J. Buy America

- B.J.1.** The domestic preference procurement requirements of 49 U.S.C. § 5323(j), and FTA regulations, "Buy America Requirements," 49 C.F.R. part 661, to the extent consistent with 49 U.S.C. § 5323(j),

K. Disputes, Breaches, Defaults, or Other Litigation

- B.K.1.** FTA Interest. FTA has a vested interest in the settlement of any violation of federal law, regulation, or disagreement involving the Award, the accompanying Underlying Agreement, and any Amendments thereto including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise.
- B.K.2.** Notification to FTA. If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel, or FTA Regional Counsel for the Region in which the Recipient is located. (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- B.K.3.** Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.
- B.K.4.** If the Recipient has credible evidence that a Principal, Official, Employee, Agent, or Third Party Participant of the Recipient, or other person has submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 *et seq.*, or has committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct involving federal assistance, the Recipient must promptly notify the U.S. DOT Inspector General, in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located.
- B.K.5.** Federal Interest in Recovery. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Underlying Agreement. Notwithstanding the preceding sentence, the Recipient may return all liquidated damages it receives to its Award Budget for its Underlying Agreement rather than return the federal share of those liquidated damages to the Federal Government, provided that the Recipient receives FTA's prior written concurrence.
- B.K.6.** Enforcement. The Recipient must pursue its legal rights and remedies available under any third party agreement, or any federal, state, or local law or regulation.

L. Lobbying Restrictions

- B.L.1.** The Recipient agrees that neither it nor any Third Party Participant will use federal assistance to influence any officer or employee of a federal agency, member of Congress or an employee of a member of Congress, or officer or employee of Congress on matters that involve the Underlying Agreement, including any extension or modification, according to the following:
 - B.L.1.1.** Laws, Regulations, Requirements, and Guidance. This includes:

B.L.1.1.1. The Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended,

B.L.1.1.2. U.S. DOT regulations, “New Restrictions on Lobbying,” 49 C.F.R. part 20, to the extent consistent with 31 U.S.C. § 1352, as amended, and

B.L.1.1.3. Other applicable federal laws, regulations, requirements, and guidance prohibiting the use of federal assistance for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature, and

B.L.1.2. Exception. If permitted by applicable federal law, regulations, requirements, or guidance, such lobbying activities described above may be undertaken through the Recipient’s or Subrecipient’s proper official channels.

M. Clean Air Act

B.M.1. (42 U.S.C. §§ 7401 – 7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 – 1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401 – 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 – 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

N. Clean Water

B.N.1. The Common Grant Rules specifically prohibit the use of facilities included in the EPA “List of Violating Facilities,” in the performance of any third party contract at any tier exceeding \$100,000. The contractor must also comply with all applicable standards, orders, or regulations issued under Section 508 of the Clean Water Act, as amended, 33 U.S.C. Section 1368, and other applicable requirements of the Clean Water Act, as amended, 33 U.S.C. Sections 1251 through 1377.

O. Cargo Preference.

B.O.1. Use of United States-Flag Vessels. The shipping requirements of 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, “Cargo Preference – U.S.-Flag Vessels,” 46 C.F.R. part 381, and

P. Fly America

B.P.1. The air transportation requirements of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations, “Use of United States Flag Air Carriers,” 41 C.F.R. §§ 301-10.131 – 301-10.143.

Q. Davis-Bacon Act, as amended (40 U.S.C. §§ 3141 – 3148)

B.Q.1. When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141 - 3144, and 3146 – 3148) as supplemented by Department of Labor regulations (29 C.F.R. part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

R. “Anti-Kickback” Prohibitions of:

B.R.1. Section 1 of the Copeland “Anti-Kickback” Act, as amended, 18 U.S.C. § 874,

B.R.2. Section 2 of the Copeland “Anti-Kickback” Act, as amended, 40 U.S.C. § 3145, and

B.R.3. U.S. DOL regulations, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States,” 29 C.F.R. part 3.

S. Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701 – 3708)

B.S.1. Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. part 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

T. Disadvantaged Business Enterprises

- B.T.1.** The Recipient acknowledges and understands that the statutory and regulatory provisions relating to disadvantaged business enterprises (DBE) differ significantly between FTA and FRA, including Section 1101(b) of the FAST Act (23 U.S.C. § 101 note) and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, both of which apply to FTA, but not to FRA.
- B.T.2.** FRA is not authorized to use FTA's DBE regulations, and consequently the Recipient agrees to comply with the statutory and regulatory DBE provisions that apply to federal assistance provided by FTA when using that federal assistance for purchases.
- B.T.3.** The Recipient agrees to use the "contracting with small and minority firms, women's business enterprise" provisions of the applicable U.S. DOT Common Rules.

U. Prompt Payment and Return of Retainage

B.U.1. The entity utilizing this Contract declines to hold retainage from prime contractor and requires a contract clause obligating the prime contractor to make prompt and full payment of any retainage kept by a prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.

V. RECYCLED PRODUCTS

- B.V.1.** 42 U.S.C. 6962
- B.V.2.** 40 CFR Part 247
- B.V.3.** Executive Order 12873
- B.V.4. Applicability to Contracts:** The Recycled Products requirements apply to all contracts for items designated by the EPA, when the Recipient procures \$10,000 or more of one (1) 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.
- B.V.5. Flow down Requirements:** These requirements flow down to all recipient and sub-recipient tiers.
- B.V.6. Recovered Materials -** The Recipient 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. The recipient agrees to comply with the U.S. Environmental Protection Agency (US EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 CFR part 247.

W. ADA ACCESS REQUIREMENTS

- B.W.1.** 49 U.S.C. § 5301, 29 U.S.C. § 794, 42 U.S.C. § 12101
- B.W.2. Applicability to Contracts:** The Recipient shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Recipient shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

X. ALTOONA TEST CERTIFICATION: (Check one of the following):

- ☒ The vehicle has been Altoona tested, report number: PTI-BT-R0518
- ☐ The vehicle is exempt from testing in accordance with 49 CFR 665
- ☐ The vehicle is currently being tested at Altoona

Y. Rolling Stock

B.Y.1. The Recipient agrees that any procurement for rolling stock will comply with 49 U.S.C. § 5325 (Contract Requirements), 49 U.S.C. § 5323(j) (Buy America Requirements), 49 U.S.C. § 5323(m) (Pre-Award and Post Delivery Requirements), and 49 U.S.C. § 5318(e) (Bus Testing Requirements), and their implementing regulations.

FEDERAL FUNDS WILL NOT BE RELEASED UNTIL THE PURCHASING AGENCY RECEIVES A COPY OF THE ALTOONA TEST REPORT IF REQUIRED IN ACCORDANCE WITH 49 CFR 665



SECTION II

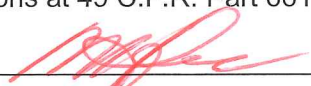
A. BUY AMERICA CERTIFICATION:

BIDDER/VENDOR to complete the Buy America Certification listed below. **BIDDER/VENDOR** shall certify **EITHER COMPLIANCE OR NON-COMPLIANCE** (not both).

Certification requirement for procurement of buses, other rolling stock, and associated equipment.

Certificate of Compliance with 49 U.S.C. 5323(j)(2)(C)

The **bidder/vendor** or offer or hereby certifies that it **will meet** the requirements of 49 U.S.C. 5323(j)(2)(C) and the regulations at 49 C.F.R. Part 661.11.

Signature 

Company Name Creative Bus Sales, Inc.

Title Bid Manager

Date 8/9/2019

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(2)(C)

The **bidder/vendor** or offer or hereby certifies that it **cannot comply** with the requirements of 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Signature _____

Company Name _____

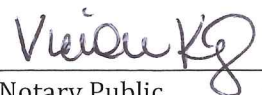
Title _____

Date _____

Instructions:

Special Note: Make sure you have signed only one of the above statements -- either Compliance OR Non-Compliance (not both).

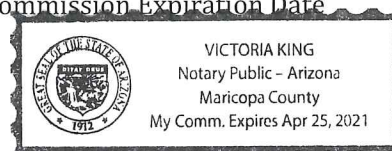
Subscribed and sworn to before me this 9th day of August 2019


Notary Public

527455
My Commission Number

4-25-2021
Commission Expiration Date

Seal:



This form MUST be prepared and signed by the offeror/vendor and submitted with all bids or offers on FTA-funded contracts. Bids or offers not accompanied by this form will be REJECTED

B. DOMESTIC CONTENT WORKSHEET:

(Typical Components of Buses from Appendix B to 49 CFR Sec. 661.11, an itemized component listing from the **manufacturer** that verifies compliance with the Buy America Provisions may be submitted in lieu of this form)

If you plan on using another components listing, you must include it with your bid and place an X in the following box. ☒

I. Components	% Domestic	X % Value	Dom. Value
engines			
transmissions			
front axle assemblies			
rear axle assemblies			
drive shaft assemblies			
front suspension assemblies			
rear suspension assemblies			
air compressor and pneumatic systems			
generator, alternator & electrical systems			
steering system assemblies			
front and rear air brake assemblies			
air conditioning compressor assemblies			
air conditioning evaporator/condenser assemblies			
heating systems.			
passenger seats			
driver's seat assemblies			
window assemblies			
entrance and exit door assemblies			
door control systems			
destination sign assemblies			
interior lighting assemblies			
front and rear end cap assemblies			
front and rear bumper assemblies			
specialty steel (structural steel tubing etc.) and aluminum extrusions			
aluminum, steel or fiberglass exterior panels and interior trim			
flooring and floor coverings			
TOTAL DOMESTIC CONTENT OF COMPONENTS (%)			

B. **CONTINUED DOMESTIC CONTENT WORKSHEET:**

II. Construction Activities (Describe Activities)	
Location of Construction Activities:	% OF DOMESTIC CONSTRUCTION ACTIVITIES:

Glaval	Universal	
Vehicle Manufacturer	Model	Model Year
Creative Bus Sales, Inc.		8/9/2019
Vendor Name	Signature	Date



C. LOBBYING:

The **BIDDER/VENDOR** certifies compliance with the Anti-Lobbying amendment, 31 U.S.C. ' 1352, as amended by the Lobbying Disclosure Act of 1995, Public Law 104-65 [to be codified at 2 U.S.C. ' 1601, et seq.]. The **BIDDER/VENDOR** also certifies that it will execute the following, "Certification Regarding Lobbying", as required by 49 CFR Part 20, AA New Restriction on Lobbying.®

EXECUTE THE FOLLOWING

CERTIFICATION REGARDING LOBBYING

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

The undersigned,

Creative Bus Sales, Inc.

(Bidder/Vendor)

certifies, to the best of his or her knowledge and belief, that:

A. 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.

B. 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 (1/96). Note: Language in paragraph "B" herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (Public Law 104-65, to be codified at 2 U.S.C. ' 1601, et seq .)]

C. 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 Subrecipient's shall certify and disclose accordingly.

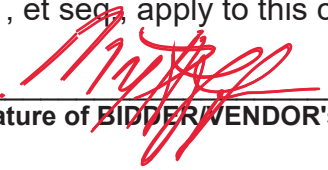
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. ' 1352 (as amended by the Lobbying Disclosure Act 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.

C. CONTINUED LOBBYING:

[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.

Creative Bus Sales, Inc.,
(Bidder/Vendor)

certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the **BIDDER/VENDOR** understands and agrees that the provisions of 31 U.S.C. ' 3801, et seq, apply to this certification and disclosure, if any.



Signature of BIDDER/VENDOR's Authorized Official

Marcus Hoffman, Bid Manager
Name and Title of BIDDER's Authorized Official

8/9/2019
Date



SECTION III

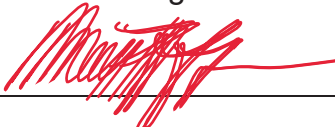
CERTIFICATION TO PURCHASER:

The undersigned **BIDDER/VENDOR** certifies that the vehicle(s) furnished will meet or exceed the specifications.

The **BIDDER/VENDOR** hereby certifies that it has attached all applicable documentation including:

1. Federal Motor Vehicle Safety Standards (**FMVSS**)
2. Altoona Test Certification
3. Buy America Certification Form
4. Domestic Content Worksheet
5. Lobbying Certification Form
6. Government wide Debarment & Suspension Certification Form
7. Certification to Purchaser Form
8. Drawing of proposed floor plan.
9. Printed product literature of the vehicle and all ancillary equipment

The undersigned **BIDDER/VENDOR** certifies that it has read all of the bid documents and agrees to abide by the terms, certifications, and conditions thereof.

Name of Company:	Printed Name of Person Completing Form:
Creative Bus Sales, Inc.	Marcus Hoffman
Address: (City, State, Zip) 1641 E. Pine Street Tulsa, OK 74106	SS# or Tax ID #: 33-0388707
Telephone: (Area Code) 800-326-2877	Signature: 

Disadvantaged Business Enterprise Information (DBE)	Bidders type of organization (circle)	
Is your firm a DBE?	Sole Proprietorship	General Proprietorship
(yes)  (no)	 Corporation	Limited Partnership
If yes, what type?	Other? Please List	

BIDDER/VENDOR CHECKLIST

THE FOLLOWING CHECKLIST MUST BE COMPLETED BY THE BIDDER/VENDOR BEFORE THE BID IS SUBMITTED.

This checklist will be used to ensure that all required procurement clauses and certifications listed within these special provisions have been read, initialed, and signed by the Bidder/Vendor along with any necessary signed certifications.

Section I. FOR ALL BIDS:

Bidder's initial all lines below:

- | | |
|--|--|
| FMVSS CERTIFICATION: Circled all applicable Standards & Signed? | <u></u> |
| A. Incorporation of Federal Transit Administration Terms: Read? | <u></u> |
| B. Federal Changes: Read? | <u></u> |
| C. DBE Certification: Read? | <u></u> |
| D. Air Conditioning Performance: Read? | <u></u> |
| E. Interest of Members of or Delegates to Congress: Read? | <u></u> |
| F. Prohibited Interest: Read? | <u></u> |
| G. Cargo Preference: Read? | <u></u> |
| H. Energy Conservation: Read? | <u></u> |
| I. Clean Water and Air: Read? | <u></u> |
| J. No Obligation By the Federal Government: Read? | <u></u> |
| K. Program Fraud and False or Fraudulent Statements: Read? | <u></u> |
| L. Contract Work Hours: Read? | |
| 1. Overtime requirements: | <u></u> |
| 2. Violation; liability for unpaid wages: | <u></u> |
| 3. Withholding for unpaid wages: | <u></u> |
| 4. Subcontracts: | <u></u> |
| 5. Payrolls and basic records: | <u></u> |
| M. Civil Rights: Read? | |
| 1. Nondiscrimination: | <u></u> |
| 2. Equal Employment Opportunity: | <u></u> |
| N. Altoona Test Certification: Completed the following? | |
| 1. Report Summary enclosed? Attached? | <u></u> |
| 2. Report # <u>PTI-BT-R0518</u> : Completed? | <u></u> |
| O. Debarment and Suspensions: Read & Understood? | <u></u> |
| 1. EPLS Report www.epls.gov (Must Not be Debarred) | <u></u> |

CONTINUED BIDDER/VENDOR CHECKLIST

Section II.

- A. **Buy America Certification:** Completed and signed? 
- B. **Domestic Content Worksheet:** Calculated, Completed & Signed? 
- C. **Lobbying Certification signed:** Completed and signed? 

Section III. **CERTIFICATION TO PURCHASER** Completed and signed? 

I hereby attest that each item was reviewed and that my initials above indicate that the item was properly executed on this date.

Creative Bus Sales, Inc.
Bidder/Vendor Company

8/9/2019
Date


Bidder/Vendor Representative

8/9/2019
Date



Pre-Award Reviewer
Replace This Blank Page
With A Screen Print
Of The
EPLS Report

SAM Search Results
List of records matching your search for :

Record Status: Active
DUNS Number: 038743944
Functional Area: Entity Management, Performance Information

ENTITY	Creative Bus Sales, Inc.	Status: Active
---------------	--------------------------	----------------

DUNS: 038743944	+4:	CAGE Code: 3BKE3	DoDAAC:
-----------------	-----	------------------	---------

Expiration Date: Apr 1, 2020	Has Active Exclusion?: No	Debt Subject to Offset?: No
------------------------------	---------------------------	-----------------------------

Address: 14740 Ramona Ave	State/Province: CALIFORNIA
City: Chino	Country: UNITED STATES
ZIP Code: 91710-5747	

***NOTE: PAGES 18 THRU 24
ARE TO BE COMPLETED BY ODOT
AT TIME OF THE BID AWARD***

SECTION IV PRE AWARD AUDIT:

A. Purchaser's Certification - 49 CFR 663, subpart B:

The **bidder/vendor** has certified that the vehicle to be provided will be the same product as described in the advertised specification. (See attached consolidated certification form signed by the **bidder/vendor**, part III -A). ODOT certifies that the **bidder/vendor** is responsible and will provide a vehicle that will meet or exceed the specifications.

EXECUTE THE FOLLOWING

PRE-AWARD PURCHASER'S REQUIREMENTS CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart B,

(ODOT)

certifies that the buses to be purchased,

(Number and Description of Buses)

from

(The Manufacturer),

are the same product described in the recipient's solicitation specification and that the proposed **bidder/vendor** is a responsible **bidder/vendor** with the capability to produce a bus that meets the specifications.

Date:

Signature:

Title:

B. BUY AMERICA - 49 CFR 663, subpart B:

The total price of this purchase is less than the small purchase threshold of \$100,000 and is not subject to Buy America requirements. **OR**

The vehicles provided by the **bidder/vendor** (# of vehicles, make, and model) cannot comply with the Buy America requirements, but may qualify for an exception (see attached consolidated certification form signed by the **bidder/vendor**, part II-A).. **OR**

The **bidder/vendor** has certified that the vehicles (# of vehicles, make, and model) will comply with the Buy America requirements. (See attached consolidated certification form signed by the **bidder/vendor**, part II-A). The **bidder/vendor** has also completed the attached domestic content worksheet. (Or the **bidder/vendor** has provided a certificate from the manufacturer that lists the domestic content of each component, states that the vehicle is composed of at least 60% domestic content, describes construction activities, and gives the location of construction activities.) The agency certifies that the vehicles provided will meet the Buy America requirements.

NOTE: Only one of the following Certifications should be signed, not both.

PRE-AWARD BUY AMERICA COMPLIANCE CERTIFICATION:

As required by Title 49 of the CFR, Part 663 – Subpart B,

(ODOT)

is satisfied that the buses to be purchased,

(Number and Description of Buses)

from

(The Manufacturer)

meet all requirements of Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended. The recipient, or its appointed analyst

(The Analyst Not the Manufacturer or Its Agent)

has reviewed documentation provided by the **manufacturer**, which lists (1) the actual component and subcomponent parts of the buses identified by the **manufacturer**, country of origin, and cost; and (2) the actual location of the final assembly point for the buses, including a description of the activities that took place at the final assembly point and the cost of final assembly.

Date:

Signature:

Title:

OR

**If not applicable, execute the following exemption certification
On next page**

B. PRE-AWARD BUY AMERICA EXEMPTION CERTIFICATION

For the Procurement of vehicle(s) that require an FTA waiver:

As required by Title 49 of the CFR, Part 663 – Subpart B,

(ODOT)

certifies that there is a letter from FTA that grants a waiver to the buses to be purchased

(Manufacturer, Number and Description of Buses)

from the Buy America requirements under Section 165(b)(1), (b)(2), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended.

Date:

Signature:

Title:

C. FEDERAL MOTOR VEHICLE SAFETY STANDARDS (FMVSS) - 49 CFR 663, subpart D:

The **bidder/vendor** has certified that the vehicle complies with relevant **FMVSS** issued by the National Highway Traffic Safety Administration in 49 CFR Part 571 (see attached **FMVSS** certification form signed by **bidder/vendor**). The **PURCHASER** certifies that the vehicles that the vehicles will meet **FMVSS**.

EXECUTE THE FOLLOWING:

EXECUTE THE FOLLOWING (Only one of the following FMVSS Certifications should be signed, not both.

PRE-AWARD FMVSS COMPLIANCE CERTIFICATION:

As required by Title 49 of the CFR, Part 663 – Subpart D,

(ODOT)

certifies that it received, at the post-delivery stage, a copy of

(The Manufacturer)

self-certification information stating that the buses,

(Manufacturer, Number and Description of Buses)

comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in Title 49 Code of Federal Regulations, Part 571.

Date:

Signature:

Title:

OR

NEXT PAGE

C. PRE-AWARD FMVSS EXEMPTION CERTIFICATION:

As required by Title 49 of the CFR, Part 663 – Subpart D,

(ODOT)

certifies that it received at the pre-award stage, a statement from

(The Manufacturer)

indicated that the buses,

(Number and Description of Buses)

will not be subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in Title 49 Code of Federal Regulations, Part 571.

Date:

Signature:

Title:

PRE- AWARD CHECKLIST:

THE FOLLOWING CHECKLIST IS TO BE COMPLETED BY THE BUYER AND ODOT PERSONNEL BEFORE BID IS AWARDED.

This checklist will be used to ensure that all required clauses and certifications are included in the vendor=s returned bid packet and that all required certifications have been signed by the vendor.

Section I. FOR ALL BIDS:

Buyer's initial all lines below:

FMVSS CERTIFICATION: Signed by Bidder/Vendor? _____

A. **Incorporation of Federal Transit Administration Terms:** Initialed by Bidder? _____

B. **Federal Changes:** Initialed by Bidder? _____

C. **DBE Certification:** Initialed by Bidder? _____

D. **Air Conditioning Performance:** Initialed by Bidder? _____

E. **Interest of Members of or Delegates to Congress:** Initialed by Bidder? _____

F. **Prohibited Interest:** Initialed by Bidder? _____

G. **Cargo Preference:** Initialed by Bidder? _____

H. **Energy Conservation:** Initialed by Bidder? _____

I. **Clean Water and Air:** Initialed by Bidder? _____

J. **No Obligation By the Federal Government:** Initialed by Bidder? _____

K. **Program Fraud and False or Fraudulent Statements:** Initialed by Bidder? _____

L. **Contract Work Hours:** Initialed by Bidder? _____

1. Overtime requirements: _____
2. Violation; liability for unpaid wages: _____
3. Withholding for unpaid wages: _____
4. Subcontracts: _____
5. Payrolls and basic records: _____

M. **Civil Rights:** Initialed by Bidder? _____

1. Nondiscrimination: _____
2. Equal Employment Opportunity: _____

N. **Altoona Test Certification completed:** Initialed by Bidder? _____

1. Report Summary enclosed? Attached to bid? _____
2. Altoona Test Report # listed by Bidder? _____

O. **Debarment and Suspensions:** Initialed by Bidder? _____

1. **EPLS Report** from www.epls.gov: Attached to bid by Procuring Agency? _____

CONTINUED PRE- AWARD CHECKLIST:

Section II.

- A. Buy America Certification signed:** Signed by Bidder/Vendor? _____
- B. Domestic Content Worksheet signed:** Signed by Bidder/Vendor? _____
- C. Lobbying Certification signed:** Signed by Bidder/Vendor? _____

Section III. CERTIFICATION TO PURCHASER:

- A. Completed and signed?** _____

The previous checklist was to determine if the Bidder/Vendor read and completed all required necessary documentation. The following checklist is to determine if ODOT signed and completed the required Certifications.

Section IV. PRE AWARD AUDIT (signed by ODOT STAFF)

- A. Purchaser=s Certification - 49 CFR 663, subpart B: Executed by ODOT?**
Pre-Award Purchaser's Requirements Certification: _____
- B. Buy America - 49 CFR 663, subpart B: Executed by ODOT?**
Pre-Award Buy America Compliance Certification, or
Pre-Award Buy America Exemption Certification: _____
- C. FMVSS - 49 CFR 663, subpart D: Executed by ODOT?**
Pre-Award FMVSS Compliance Certification, or
Pre-Award FMVSS Exemption Certification: _____

I hereby attest that each item was reviewed and that my initials above indicate that the item was properly executed on this date.

ODOT	Date
------	------

ODOT Reviewer	Date
---------------	------

***NOTE: PAGES 26 THRU 32
ARE TO BE COMPLETED BY THE PURCHASER
AT TIME OF VEHICLE DELIVERY***

SECTION V POST DELIVERY AUDIT:

A. Purchaser's Certification - 49 CFR 663, subpart C:

After visually inspecting and road testing the contract buses, the agency certifies that the (# of vehicles, make, and model) meet the contract specifications.

- or, Grantees in areas with populations of 200,000 or less that purchase more than 20 buses.

The agency's resident inspector monitored manufacturing and completed a report providing accurate records of all construction activities. The report addresses how the construction and operation of the vehicles fulfill the contract specifications. After reviewing the report, visually inspecting and road testing the contract buses, the agency certifies that the (# of vehicles, make, and model) meet the contract specifications.

EXECUTE THE FOLLOWING:

NOTE: Only one of the following Certifications should be signed, not both.

POST-DELIVERY PURCHASER'S REQUIREMENTS CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart C, after visually inspecting and road testing the contract buses,

(The Purchaser)

certifies that the buses,

(Number and the Description of Buses)

from

(The Manufacturer),

meet the contract specifications.

Date:

Signature:

Title:

OR

NEXT PAGE

A. POST-DELIVERY PURCHASER'S REQUIREMENTS CERTIFICATION:

As required by Title 49 of the CFR, Part 663 – Subpart C,

(The Purchaser)

certifies that a resident inspector,

(Not an Agent or Employee of the Manufacturer),

was at manufacturing site during the period of manufacture of

(Number and Description of Buses)

The inspector monitored manufacturing and completed a report on the manufacture of the buses providing accurate records of all bus construction activities. The report addresses how the construction and operation of the buses fulfill the contract specifications. After reviewing the report, visually inspecting the buses, and road testing the buses, the recipient certifies that the buses meet the contract specifications.

Date:

Signature:

Title:

B. BUY AMERICA - 49 CFR 663, subpart C:

The total price of this purchase is less than the small purchase threshold of \$100,000 and is not subject to Buy America requirements. **OR**

The agency certifies that there is a letter from FTA, which grants a waiver to the vehicles provided by the vendor (# of vehicles, make, and model) from the Buy America requirements, under Section 165 (b)(1), (b)(2), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended. **OR**

The agency certifies that it is satisfied that the (# of vehicles, make, and model) meet the requirements of Section 165 (b)(3) . The agency has reviewed documentation provided by the **manufacturer** that lists the domestic content of each component, states that the vehicle is composed of at least 60% domestic content, describes construction activities, and gives the location of final construction activities.

NOTE: Only one of the following Certifications should be signed, not both.

POST-DELIVERY BUY AMERICA COMPLIANCE CERTIFICATION:

As required by Title 49 of the CFR, Part 663 – Subpart C,

(The Purchaser)

certifies that the buses received are in fact what they ordered and are satisfied with the,

(Number and Description of Buses)

from

(The Manufacturer)

meet the requirements of section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended. The recipient or its appointed analyst

(The Analyst Not the Manufacturer or Its Agent)

has reviewed documentation provided by the **manufacturer**, which lists (1) the actual component and subcomponent parts of the buses identified by the **manufacturer**, country of origin, and cost; and (2) the actual location of the final assembly point for the buses, including a description of the activities that took place at the final assembly point and the cost of final assembly.

Date:

Signature:

Title:

OR

**If not applicable, execute the following exemption certification
On next page**

B. POST-DELIVERY BUY AMERICA EXEMPTION CERTIFICATION:

As required by Title 49 of the CFR, Part 663 – Subpart C,

(The Purchaser)

certifies that there is a letter from FTA, which grants a waiver to the buses received,

(Manufacturer, Number and Description of Buses)

from the Buy America requirements under Section 165(b)(1), (b)(2), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended.

Date:

Signature:

Title:

Vehicle Vin Numbers:

[illegible]

C. FEDERAL MOTOR VEHICLE SAFETY STANDARDS (FMVSS) - 49 CFR 663, subpart D:

The vendor has certified that the vehicle complies with relevant FMVSS issued by the National Highway Traffic Safety Administration in 49 CFR Part 571 (see attached FMVSS certification form provided by the **bidder** upon vehicle delivery). The agency certifies that the vehicles provided meet FMVSS.

EXECUTE THE FOLLOWING:

NOTE: Only one of the following Certifications should be signed, not both.

POST-DELIVERY FMVSS COMPLIANCE CERTIFICATION:

As required by Title 49 of the CFR, Part 663 – Subpart D,

(The Purchaser)

certifies that it received, at the post-delivery stage, a copy of

(The Manufacturer)

self-certification information stating that the buses,

(Manufacturer, Number and Description of Buses)

comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in Title 49 Code of Federal Regulations, Part 571.

Date:

Signature:

Title:

OR

NEXT PAGE

C. POST-DELIVERY FMVSS EXEMPTION CERTIFICATION:

As required by Title 49 of the CFR, Part 663 – Subpart D,

(The Purchaser)

certifies that it received, at the Post-delivery stage, a statement from

(The Manufacturer)

indicating that the buses,

(Number and Description of Buses)

are not subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in Title 49 Code of Federal Regulations, Part 571.

Date

Signature

Title

POST DELIVERY AUDIT

THE FOLLOWING CHECKLIST IS TO BE COMPLETED BY THE BUYER AND ODOT PERSONNEL BEFORE THE VEHICLE(S) ARE ACCEPTED.

Section V VEHICLE DELIVERY CHECKLIST: (to be signed by buyer upon acceptance of vehicle)

Buyer initials all lines below:

A. Purchaser's Certification - 49 CFR 663, subpart C:

Post-Delivery Purchaser's Requirements Certification or
Post-Delivery Purchaser's Requirements Certification (Inspector): _____

B. Buy America - 49 CFR 663, subpart C:

Post-Delivery Buy America Compliance Certification or
Post-Delivery Buy America Exemption Certification: _____

B. FMVSS - 49 CFR 663, subpart D:

Post-Delivery FMVSS Compliance Certification or
Post-Delivery FMVSS Exemption Certification: _____

Section VI CERTIFICATION OF DELIVERY:

By executing this document,

A. You hereby request that a Lien Entry Form – Motor Vehicle be issued naming the Oklahoma Department of Transportation as Secured Party and that said form(s) will be delivered by the purchaser to a local tag agent for executing and

B. Assure the vehicle be used in accordance with the federal regulations and current provisions, as applicable.

I hereby attest that each item was reviewed and that my initials above indicate that the item was properly executed.

Purchaser

Date

ODOT Reviewer

Date

EXHIBIT B

January 23, 2025
Quote Valid for 60 Days



State of Oklahoma Contract

SW0797C

FY 2024

Preparer: Jeffrey E. Johnson

Base Model

Base Model Price: \$ 132,076.00

Options: \$ 18,479.00

Other Available Options: \$ 36,666.00

Unpublished Options: \$ 41,866.20



Vehicle Length	Lift Position	WC Positions	Total # Passengers	CDL Required
Approximately 25'	Rear	2	16	Yes

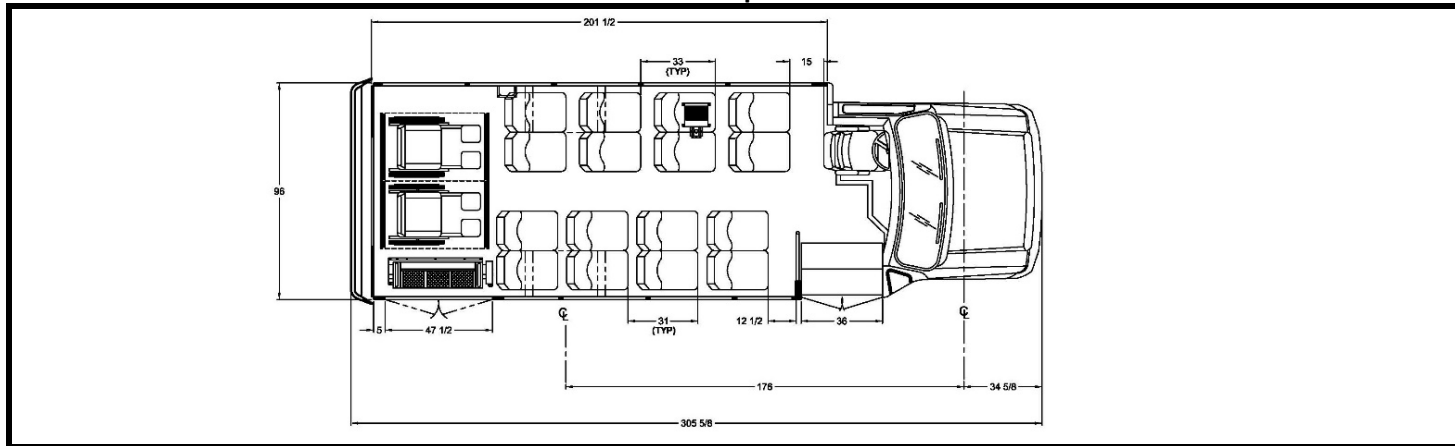
QTY Vehicles: 6 Total Contract Price: **\$ 1,374,523.20**

Per Vehicle Price: \$ 229,087.20

Customer Info

Customer:	Fort Bend County
Address:	3737 Bamore Rd, Rosenberg, TX 77471
Contact:	Thomas Kuzinski
Office Phone:	
Mobile Phone:	832-449-2052
E-Mail:	Thomas.Kuzinski@fortbendcountytexas.gov

Floorplan



OPTIONS

Type G - 26' 20 Passenger Front Lift

Qty	Description	FY 2023 List Price	QTY Total
1	Back-Up Monitor System	\$ 712.00	\$ 712.00
1	Painted Lower Skirts	\$ 876.00	\$ 876.00
1	Outside Passenger Door Switch- Keyed	\$ 123.00	\$ 123.00
1	Bus Camera System	\$ 3,450.00	\$ 3,450.00
1	Street Side Exhaust	\$ 246.00	\$ 246.00
1	Public Address System	\$ 485.00	\$ 485.00
1	Passenger Signal System Pull Cord	\$ 1,103.00	\$ 1,103.00
1	Base Destination Signs	\$ 6,245.00	\$ 6,245.00
1	Bicycle Racks	\$ 3,992.00	\$ 3,992.00
1	Side Door Slide Out Battery Box	\$ 315.00	\$ 315.00
1	Memo/Pamphlet Rack	\$ 498.00	\$ 498.00
2	Freedman Seating TDSS (or equivalent) Fold Away Seat	\$ 189.00	\$ 378.00
2	Extra Seat Belt Extension	\$ 28.00	\$ 56.00
-	Subtotal Manufacturer Options:		\$ 18,479.00

OTHER AVAILABLE OPTIONS

Type G - 26' 20 Passenger Front Lift

Qty	Description	FY 2024 List Price	QTY Total
1	Upgrade rooftop AC-75KBTU	\$ 8,316.00	\$ 8,316.00
1	Clever Devices system - hardware only	\$ 28,350.00	\$ 28,350.00
-	Subttotal Manufacturer Options:		\$ 36,666.00

CBS UNPUBLISHED OPTIONS**Type G - 26' 20 Passenger Front Lift**

Qty	Description	FY 2025 List Price	QTY Total
1	Infotainment System	\$ 6,511.05	\$ 6,511.05
1	Cellular Wifi-Cradle Point	\$ 4,914.00	\$ 4,914.00
1	Hand Sanitizer Dispenser	\$ 510.30	\$ 510.30
1	Driver Barrier	\$ 2,929.50	\$ 2,929.50
1	Voice Annunciation System Credit to Luminator Voice Annunciation System	\$ (15,228.15)	\$ (15,228.15)
1	Upgrade basic camera system to the Seon System	\$ 7,235.55	\$ 7,235.55
1	Upgrade basic destination Signs to the Luminator Horizon Signs	\$ 7,192.50	\$ 7,192.50
1	Transportation to Fort Bend County	\$ 1,536.15	\$ 1,536.15
1	Face Mask Dispenser	\$ 603.75	\$ 603.75
1	As Built Parts Manual-Provided on a Thumbdrive	\$ 341.25	\$ 341.25
1	AS Built Electric Schematics-Provided on a Thumbdrive	\$ 341.25	\$ 341.25
1	Manual Farebox	\$ 3,432.45	\$ 3,432.45
2	Credit for removing flrp seats to achieve 16 passengers versus 20 passengers	\$ (895.00)	\$ (1,790.00)
1	Overhead Storage	\$ 997.50	\$ 997.50
1	Stainless Steel Wheel Inserts	\$ 509.25	\$ 509.25
16	Upgrade the standard seats to the 3 Point Passenger Seats/Seatbelts	\$ 803.25	\$ 12,852.00
1	Ram Mount Tablet Holder	\$ 421.05	\$ 421.05
1	Increase for a 2025 Ford E-450 Chassis	\$ 1,953.00	\$ 1,953.00
1	Increase from a 2024 to 2025 Base Bus	\$ 6,603.80	\$ 6,603.80
-	Subtotal CBS Unpublished Options:		\$ 41,866.20

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Model 1 Commercial Vehicles, Inc.
Irving, TX United States

Certificate Number:
2025-1293202

Date Filed:
04/09/2025

Date Acknowledged:
04/09/2025

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Fort Bend County Transit

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

24-PT-100718
Cutaway Passenger Buses

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.



6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)