

**ATTACHMENT F**  
**AGREEMENT NO. 2502-ALLIED UNIVERSAL SECURITY**  
**SERVICES**

**AGREEMENT # 2502  
FOR TRANSIT SECURITY SERVICES**

**BETWEEN THE KINGS COUNTY AREA PUBLIC TRANSIT AGENCY (KCAPTA)  
AND ALLIED UNIVERSAL SECURITY SERVICES**

This Agreement, entered into this 23rd day of October, 2024 ["Effective Date"] by and between Kings County Area Public Transit Agency, hereinafter referred to as the "AGENCY", and Allied Universal Security Services, hereinafter referred to as the "CONTRACTOR", "BIDDER" OR "VENDOR".

WITNESSETH

**WHEREAS**, the AGENCY is authorized and empowered to employ consultants and specialists in the performance of its duties and functions; and

**WHEREAS**, the AGENCY has the desire to secure certain security guard services described as "Scope of Work", Exhibit "A", and hereinafter referred to as the "PROJECT" ;and

**WHEREAS**, the CONTRACTOR represents it is licensed, qualified and willing to provide such services pursuant to terms and conditions of this Agreement.

NOW, THEREFORE, AGENCY and CONTRACTOR agree as follows:

**I. SERVICES TO BE PERFORMED BY THE CONTRACTOR**

- A. Authorized Scope of Work: The CONTRACTOR agrees to perform all work necessary to complete in a manner satisfactory to the AGENCY those tasks described in Exhibit "A" Section 3- Scope of Work, for the price identified in Exhibit "B"- Price Proposal.
- B. Service Hours: The CONTRACTOR shall complete the tasks described in Exhibit "A" – Scope of Work in accordance with the following "Service Hours" scheduling. Scheduling for Service Hours shall be at the sole discretion of the AGENCY, and AGENCY reserves the right to modify the scheduling of Service Hours during the term of this Agreement as AGENCY deems necessary in its sole discretion.

Standing Guard or Patrol Service

Monday – Sunday:	9:00 PM – 5:30 AM	=	8.00 hrs
	(-30 min lunch)		
(4) Working Holidays:	9:00 PM – 5:30 AM	=	8.00 hrs
	(-30 min lunch)		

Holiday Schedule

KART operates on the following Holidays:

- Martin Luther King Day
- Day after Thanksgiving
- Christmas Eve
- New Year's Eve

KART does not operate on the following Holidays:

- New Year's Day
- Presidents' Day
- Memorial Day
- Independence Day
- Labor Day
- Veterans Day
- Thanksgiving Day
- Christmas Day

**II. TERM**

The term of this Agreement shall commence on February 1, 2025 and expire upon January 31, 2030, unless earlier terminated as provided in this Agreement.

**III. COMPENSATION**

AGENCY shall pay CONTRACTOR compensation for service as indicated below; however AGENCY shall not pay more than the following amount as total compensation under this Agreement, unless otherwise agreed in writing. Such sum shall be expended and paid by AGENCY on a reimbursement basis for services actually performed based on invoices, receipts, time sheets and similar documents presented by CONTRACTOR to AGENCY.

	Year 1 2/1/2025 – 1/31/2026	Year 2 2/1/2026 – 1/31/2027	Year 3 2/1/2027 – 1/31/2028
Standard Hourly Rate:	\$31.00	\$31.93	\$32.89
Holiday Hourly Rate:	\$46.50	\$47.90	\$49.34
Total Compensation:	\$89,280	\$91,959	\$94,723
Payment Schedule:	Within 30 days of receipt of Contractor's itemized invoice		

	Year 4 2/1/2028 – 1/31/2029	Year 5 2/1/2029 – 1/31/2030	
Standard Hourly Rate:	\$33.88	\$34.07	
Holiday Hourly Rate:	\$50.82	\$51.11	
Total Compensation:	\$97,574	\$98,122	
Payment Schedule:	Within 30 days of receipt of Contractor's itemized invoice		

#### IV. AUTHORIZED REPRESENTATIVE

- A. AGENCY: The Transit Manager of the Agency shall represent the AGENCY in all matters pertaining to the services to be rendered under this Agreement, except where approval of the AGENCY's Board is specifically required.
- B. CONTRACTOR: Courtney White, shall represent and act as principle for CONTRACTOR in all matters pertaining to the services to be rendered by it under this Agreement.

#### V. TERMINATION

##### Termination for Convenience (General Provision)

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

##### Termination for Default [Breach or Cause] (General Provision)

If the FIRM does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the FIRM fails to perform in the manner called for in the contract, or if the FIRM fails to comply with any other provisions of the contract, the AGENCY may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the FIRM setting forth the manner in which the FIRM is in default. The FIRM will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the AGENCY that the FIRM had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the FIRM, the AGENCY, after setting up a new delivery of performance schedule, may allow the FIRM to continue work, or treat the termination as a Termination for Convenience.

##### Opportunity to Cure (General Provision)

The AGENCY, in its sole discretion may, in the case of a termination for breach or default, allow the FIRM [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions. If FIRM fails to remedy to AGENCY's satisfaction the breach or default of any of the terms, covenants; or conditions of this Contract within [10 days] after receipt by FIRM of written notice from AGENCY setting forth the nature of said breach or default, AGENCY shall have the right to terminate the contract without any further obligation to FIRM. Any such termination for default shall not in any way operate to preclude AGENCY from also pursuing all available remedies against FIRM and its sureties for said breach or default.

##### Waiver of Remedies for any Breach

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

##### Termination for Convenience (Professional or Transit Service Contracts)

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

### **Termination for Default (Supplies and Service)**

If the FIRM fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the FIRM fails to comply with any other provisions of this contract, the AGENCY may terminate this contract for default. The AGENCY shall terminate by delivering to the FIRM a Notice of Termination specifying the nature of the default. The FIRM will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

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

## **VI. INTEREST OF OFFICIALS AND THE FIRM**

- A. No officer, member, or employee of the AGENCY who exercises any functions or responsibilities in the review or approval of this Agreement shall:
1. Participate in any decision relating to this Agreement which affects his personal interest or the interest of any corporation, partnership, or association in which he has, directly or indirectly, any interest; or
  2. Have any interest, direct or indirect, in this Agreement or the proceeds thereof during his tenure or for one year thereafter.
- B. The FIRM hereby covenants that it has, at the time of the execution of this Agreement, no interest, and that FIRM shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed pursuant to this Agreement. The FIRM further covenants that in the performance of this work, no person having any such interest shall be employed.

## **VII. NO PERSONNEL, AGENCY, OR COMMISSION**

The FIRM warrants, by execution of this Agreement, that no personnel agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide established commercial or selling agencies maintained by the FIRM for the purpose of securing business. For breach or violation of this warranty, the AGENCY shall have the right to annul this Agreement without liability or, in its discretion, to deduct from this Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

## **VIII. SUBCONTRACTING**

- A. The FIRM shall not subcontract or otherwise assign any portion of the work to be performed under this Agreement without the prior written approval of the AGENCY.
- B. In no event shall the FIRM subcontract work in excess of 50% of the contract amount, excluding specialized services. Specialized services are those items not ordinarily furnished by a consultant performing the particular type of project.

## IX. INDEPENDENT FIRM

In the performance of the services provided for herein, the FIRM shall be, and is, an independent FIRM and is not an agent or employee of the AGENCY. The FIRM has and shall retain the right to exercise full control and supervision of all people assisting the FIRM in the performance of said services hereunder. The FIRM shall be solely responsible for all matters relating to the payment of its employees including compliance with social security and income tax withholding and all other regulations governing such matters.

## X. SPECIFICATIONS

All specifications, manuals, standards, etc., either attached to this Agreement or incorporated by reference, are binding as to the performance of the work specified in this Agreement unless they are changed by written amendment to this Agreement to incorporate such changes.

## XI. DOCUMENTS/DATA

- A. Ownership of Documents: All original papers and documents, produced as a result of this Agreement, shall become the property of the AGENCY. In addition, AGENCY shall be provided with access and use of any other papers and documents consistent with the purpose and scope of services covered by this Agreement. Any additional copies, not otherwise provided for herein, shall be the responsibility of the AGENCY.
- B. Publication: No report, information, or other data given or prepared or assembled by the FIRM pursuant to this Agreement, shall be made available to any individual or organization by the FIRM without the prior written approval of the AGENCY. Notwithstanding the foregoing, however, the FIRM shall not be required to protect or hold in confidence and confidential information which (1) is or becomes available to the public with the prior written consent of the AGENCY; (2) must be disclosed to comply with law; or (3) must be disclosed in connection with any legal proceedings.

## XII. INDEMNIFICATION AND INSURANCE

- A. In respects to all acts, errors, or omissions in the performance of professional services, FIRM agrees to indemnify and hold harmless AGENCY, its elected and appointed officers, employees, and AGENCY designated volunteers from and against any and all claims, demands, defense costs, liability or consequential damages of any kind or nature arising directly out of FIRM's negligent acts, errors or omissions in the performance of his/her professional services under the terms of this Agreement.
- B. As respects all acts or omissions which do not arise directly out of the performance of professional services, including but not limited to those acts or omissions normally covered by general and automobile liability insurance, FIRM agrees to indemnify, defend (at AGENCY's option), and hold harmless AGENCY, its elected and appointed officers, agents, employees, representatives, and volunteers from and against any and all claims, demands, defense costs, liability, or consequential damages of any kind or nature arising out of or in connection with FIRM's (or FIRM's subcontractors, if any) performance or failure to perform, under the terms of this Agreement; excepting those which arise out of the sole negligence of AGENCY.

- C. Without limiting AGENCY's right to indemnification, it is agreed that FIRM shall secure prior to commencing any activities under this Agreement, and maintain during the term of this Agreement, insurance coverage as follows:
1. Workers' compensation insurance as required by California law.
  2. Commercial general liability insurance with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence. Such insurance shall include coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Products and Completed Operations Liability, Broad Form Property Damage (if applicable), Independent FIRM's Liability (if applicable).
  3. Comprehensive Automobile Liability coverage with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence. Such insurance shall include coverage for owned, hired, and non-owned automobiles and shall be provided by a business automobile policy.
- D. AGENCY'S Transit Manager is hereby authorized to reduce the requirements set forth above in the event he determines that such reduction is in the AGENCY'S best interest.
- E. Each insurance policy required by this Agreement shall contain the following clause:
- "This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days prior written notice has been given to KCAPTA, Clerk of the Board, 610 W 7<sup>th</sup> Street, Hanford, CA 93230."

In addition, the commercial general liability and comprehensive automobile liability policies required by this Agreement shall contain the following clauses:

"It is agreed that any insurance maintained by Kings County Area Public Transit Agency shall apply in excess of and not contribute with insurance provided by this policy."

"Kings County Area Public Transit Agency, its officers, agents, employees, representatives and volunteers are added as additional insured as respects operations and activities of, or on behalf of the named insured, performed under contract with Kings County Area Public Transit Agency."

- F. Prior to commencing any work under this Agreement, FIRM shall deliver to AGENCY insurance certificates confirming the existence of the insurance required by this Agreement, and include the applicable clauses referenced above. Within thirty (30) days of the execution date of this Agreement, FIRM shall provide to AGENCY endorsements to the above-required policies, which add to these policies the applicable clauses referenced above. Said endorsements shall be signed by an authorized representative of the insurance company and shall include the signatory's company affiliation and title. Should it be deemed necessary by AGENCY, it shall be FIRM's responsibility to see that AGENCY receives documentation acceptable to AGENCY which sustains that the individual signing said endorsements is indeed authorized to do so by the insurance company. AGENCY has the right to demand, and to receive within a reasonable time period, copies of any insurance policies required under this Agreement.

- G. In addition to any other remedies AGENCY may have if FIRM fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, AGENCY may, at its sole option:
1. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; or
  2. Order FIRM to stop work under this Agreement and/or withhold any payment(s) which become due to FIRM hereunder until FIRM demonstrates compliance with the requirements hereof; or
  3. Terminate this Agreement.

Exercise of any of the above remedies, however, is an alternative to other remedies AGENCY may have and is not the exclusive remedy for FIRM's failure to maintain insurance or secure appropriate endorsements.

Nothing herein contained shall be construed as limiting in any way the extent to which FIRM may be held responsible for payments of damages to persons or property resulting from FIRM's or its subcontractor's performance of the work covered under this Agreement.

### XIII. MISCELLANEOUS PROVISIONS

- A. Successors and Assigns: This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.
- B. Prohibition of Assignment: Neither the AGENCY nor FIRM shall assign, delegate or transfer their rights and duties in this Agreement without the written consent of the other party.
- C. Dispute/Governing Law: Any dispute not resolvable by informal arbitration between the parties to this Agreement shall be adjudicated in a Court of Law under the laws of the State of California.
- D. Notices: Notice shall be sufficient hereunder if personally served upon the Clerk of the Board, or an officer or principal of the FIRM, or if sent via the United States Postal Service, postage prepaid, addressed as follows:

Kings County Area Public Transit Agency  
610 W 7<sup>th</sup> Street  
Hanford, CA 93230  
Attention: Clerk of the Board

- E. Jurisdiction/Venue/Waiver Of Removal: This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be in that State. Any action brought to interpret or enforce this Agreement, or any of the terms or conditions hereof, shall be brought in Kings County, California. The FIRM hereby expressly waives any right to remove any action to a county



other than Kings County as permitted pursuant to Section 394 of the California Code of Civil Procedure.

- F. Integration/Modification: This Agreement and each of the exhibits referenced herein, which are incorporated by reference, represents the entire understanding of the AGENCY and the FIRM as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by the AGENCY and the FIRM.
- G. Conflict With Law: If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said law, but the remainder of the Agreement shall be in full force and effect.
- H. Construction: This Agreement is the product of negotiation and compromise on the part of each party and the parties agree, notwithstanding Civil Code Section 1654, that in the event of uncertainty the language will not be construed against the party causing the uncertainty to exist.
- I. Authority: Each signatory to this Agreement represents that it is authorized to enter into this Agreement and to bind the party to which its signature represents.
- J. Headings: Section headings are provided for organizational purposes only and do not in any manner affect the scope or intent of the provisions thereunder.

#### XIV. COMPLIANCE WITH FEDERAL LAWS AND REGULATIONS

This contract is financed in part with Federal funding. All services performed by FIRM pursuant to this AGREEMENT shall be performed in accordance and full compliance with all applicable federal laws and requirements including, but not limited to:

##### A. ACCESS TO RECORDS AND REPORTS (49 U.S.C. § 5325 (g), 2 C.F.R §200.333, 49 C.F.R. part 633)

###### Contract Requirements:

- (a) Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and make readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontractor, arrangements, other third party agreements of any type, and supporting materials related to those records.
- (b) Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.33. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- (c) Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonable may be required.

- (d) Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonable may be required.

**B. LOBBYING RESTRICTIONS**

(31 U.S.C. § 1352, 2 C.F.R. § 200.450, 2 C.F.R. Part 200 appendix II (J), 49 C.F.R. Part 20)

**Lobbying Restrictions**

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence 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.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients 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 section 1352, title 31, U.S. Code. 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. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

(42 U.S.C. §§ 7401-7671q, 33 U.S.C. §§ 1251-1387, 2 C.F.R. part 200, Appendix II (G))

The Contractor agrees:

1. It will not use any violating facilities;
2. It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"
3. It will report violations of use of prohibited facilities to FTA; and
4. It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

## D. CIVIL RIGHTS LAWS AND REGULATIONS

### Civil Rights and Equal Opportunity

The Kings County Area Public Transit Agency (KCAPTA) is an Equal Opportunity Employer. As such, the KCAPTA agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the KCAPTA agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e *et seq.*, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*, U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et seq.*, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**E. DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

(49 C.F.R. part 26)

(SUBMIT WITH PROPOSAL)

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

1. Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. Create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;
3. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 C.F.R. part 26 eligibility standards are permitted to participate as DBE's;
5. Help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To promote the use of DBEs in all types of federally assisted contracts and procurement activities; and
7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

This Contract is subject to 49 C.F.R. part 26. Therefore, the Contractor must satisfy the requirements for DBE participation as set forth herein. These requirements are in addition to all other equal opportunity employment requirements of this Contract. The AGENCY shall make all determinations with regard to whether or not a Bidder/Offeror is in compliance with the requirements stated herein. In assessing compliance, the AGENCY may consider during its review of the Bidder/Offeror's submission package, the Bidder/Offeror's documented history of non-compliance with DBE requirements on previous contracts with the AGENCY.

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

**Sanctions for Violations**

If at any time the AGENCY has reason to believe that the Contractor is in violation of its obligations under this Agreement or has otherwise failed to comply with terms of this Section, the AGENCY may, in addition to pursuing any other available legal remedy, commence proceedings, which may include but are not limited to, the following:

- Suspension of any payment or part due the Contractor until such time as the issues concerning the Contractor's compliance are resolved; and
- Termination or cancellation of the Contract, in whole or in part, unless the successful Contractor is able to demonstrate within a reasonable time that it is in compliance with the DBE terms stated herein.

**F. ENERGY CONSERVATION**

(42 U.S.C. 6321 *et seq.*, 49 C.F.R. part 622, subpart C)

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

**G. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION**

(2 C.F.R. part 180, 2 C.F.R. part 1200, 2 C.F.R. § 200.213, 2 C.F.R. part 200 Appendix II (I), Executive Order 12549, Executive Order 12689)

The Contractor shall comply and facilitate compliance with U.S. DOT 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, the Contractor 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:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award;
- f) 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 KCAPTA. If it is later determined by the KCAPTA that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the KCAPTA, 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.

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

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

I. **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**  
(49 U.S.C. § 5323(l) (1), 31 U.S.C. §§ 3801-3812, 18 U.S.C. § 1001, 49 C.F.R. part 31)

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

J. **RECYCLED PRODUCTS**  
(42 U.S.C. § 6962, 40 C.F.R. part 247, 2 C.F.R. part § 200.322)

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.

K. **SAFE OPERATION OF MOTOR VEHICLES**  
(23 U.S.C. part 402, Executive Order No. 13043, Executive Order No. 13513, U.S. DOT Order No. 3902.10)

Seat Belt Use

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or KCAPTA.

Distracted Driving

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

L. **TERMINATION**  
(2 C.F.R. § 200.339, 2 C.F.R. part 200, Appendix II (B))

Termination for Convenience (General Provision)

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

Termination for Default [Breach or Cause] (General Provision)

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the KCAPTA may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the KCAPTA that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the KCAPTA, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Opportunity to Cure (General Provision)

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

If Contractor fails to remedy to KCAPTA's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from KCAPTA setting forth the nature of said breach or default, KCAPTA shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude KCAPTA from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach

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

Termination for Convenience (Professional or Transit Service Contracts)

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

Termination for Default (Supplies and Service)

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the KCAPTA may terminate this contract for default. The KCAPTA shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

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

#### Termination for Default (Transportation Services)

If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the KCAPTA may terminate this contract for default. The KCAPTA shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of KCAPTA goods, the Contractor shall, upon direction of the KCAPTA, protect and preserve the goods until surrendered to the KCAPTA or its agent. The Contractor and KCAPTA shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

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

#### Termination for Default (Construction)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, KCAPTA may terminate this contract for default. The KCAPTA shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the KCAPTA may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the KCAPTA resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the KCAPTA in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if:

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of KCAPTA, acts of another contractor in the performance of a contract with KCAPTA, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The Contractor, within [10] days from the beginning of any delay, notifies KCAPTA in writing of the causes of delay. If, in the judgment of KCAPTA, the delay is excusable, the time for completing the work shall be extended. The judgment of KCAPTA shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of KCAPTA.

#### Termination for Convenience or Default (Architect and Engineering)

The KCAPTA may terminate this contract in whole or in part, for the KCAPTA's convenience or because of the failure of the Contractor to fulfill the contract obligations. The KCAPTA shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the KCAPTA's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other



information and materials accumulated in performing this contract, whether completed or in process. KCAPTA has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of the KCAPTA, the KCAPTA's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the KCAPTA may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the KCAPTA.

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

Termination for Convenience or Default (Cost-Type Contracts)

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

If the termination is for the convenience of KCAPTA, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a Notice of Termination for Default, the KCAPTA determines that the Contractor has an excusable reason for not performing, the KCAPTA, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

**M. VIOLATION AND BREACH OF CONTRACT**

(2 C.F.R. § 200.326, 2 C.F.R. part 200, Appendix II (A))

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

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

For purposes of this Contract, breach shall include disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of KCAPTA's Transit Manager. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise

furnishes a written appeal to the Executive Director. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Executive Director shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by KCAPTA, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

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

#### Rights and Remedies of Contractor

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

#### Remedy

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

#### Disputes

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

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

#### Performance during Dispute

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

#### Claims for Damages

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

#### Remedies

Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the KCAPTA and the Contractor arising out of or relating to this agreement or its

breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the KCAPTA is located.

#### Rights and Remedies

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

#### **N. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS** (FTA Circular 4220.1F)

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, 2008, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Kings County Area Public Transit Agency requests which would cause Kings County Area Public Transit Agency to be in violation of the FTA terms and conditions.

#### **O. AMERICANS WITH DISABILITIES ACT (ADA)**

Americans with Disabilities Act (ADA). The Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC § 12101 et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; 49 USC § 5301(d); and any implementing requirements FTA may issue. These regulations provide that no handicapped individual, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity included in or resulting from this Agreement.

#### **P. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.

Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

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.

The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

#### Contract Work Hours and Safety Standards

1. **Overtime requirements** - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or

permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
3. **Withholding for unpaid wages and liquidated damages** - The (write in the name of the grantee) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
4. **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in 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 contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

#### **Contract Work Hours and Safety Standards for Awards Not Involving Construction**

The Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 *et seq.*, and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.

The Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

Such records maintained under this paragraph shall be made available by the Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and the Contractor will permit such representatives to interview employees during working hours on the job.

The contractor shall require the inclusion of the language of this clause within subcontract of all tiers.

**Q. DHS SEAL, LOGO, AND FLAGS**

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FTA pre-approval.

**R. EQUAL EMPLOYEMENT OPPORTUNITY**

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or

order of the Secretary of Labor, or as otherwise provided by law.

- (8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### **S. FEDERAL CHANGES**

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

#### **T. FTA PROTEST PROCEDURES**

Contractors are hereby notified that, if this contract is funded in whole or in part by the Federal Department of Transportation, the Federal Transit Administration (FTA) may entertain a protest that alleges that AGENCY failed to have or follow written protest procedures. Bidders must file a protest with the FTA not later than five (5) days after AGENCY renders a final decision or five (5) days after the Bidder knows or has reason to know that AGENCY has failed to render a final decision. Protest to the FTA must be filed in accordance with FTA Circular 4220.1F (as periodically updated)

#### **U. METRIC REQUIREMENT**

As required by U.S. DOT or FTA KCAPTA agrees to use the metric system of measurement in its Project activities, pursuant to the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act, 15 U.S.C. §§ 205a et seq.; Executive Order No. 12770, "Metric Usage in Federal Government Programs," 15 U.S.C. §§ 205a note; and other U.S.DOT or FTA regulations, guidelines, and policies. To the extent practicable and feasible, KCAPTA agrees to accept products and services with dimensions expressed in the metric system of measurement.

#### **V. PROMPT PAYMENT**

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

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

#### **W. TAX LIABILITY AND FELONY CONVICTIONS**

The Contractor certifies:

1. It has not 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
2. It has not been convicted of a felony criminal violation under any Federal law within the preceding 24 months.

The Contractor agrees to include the above clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA.

#### **X. TRAFFICKING VICTIMS PROTECTION ACT**

The Contractor certifies:

The Contractor does not engage in, or uses labor recruiters, brokers, or other agents who engage in

1. Severe forms of trafficking in persons
2. The procurement of a commercial sex act during the period of time that the grant, contract, or cooperative agreement is in effect
3. The use of forced labor in the performance of the grant, contract, or cooperative agreement
4. Acts that directly support or advance trafficking in persons, including the following acts:
  - (A) Destroying, concealing, removing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents.

(B) Failing to provide return transportation or pay for return transportation costs to an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment if requested by the employee, unless

- Exempted from the requirement to provide or pay for such return transportation by the Federal department or agency providing or entering into the grant, contract, or cooperative agreement; or
- The employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or witness in a human trafficking enforcement action

(C) Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment

(D) Charging recruited employee placement or recruitment fees

(E) Providing or arranging housing that fails to meet the host country housing and safety standards.

The Contractor agrees to include the above clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA.

#### **Y. SIMPLIFIED ACQUISITION THRESHOLD**

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317-200.327. The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America's eligibility and process requirements apply to any procurement in excess of \$150,000 49 U.S.C. § 5323(j)(13)).

Z. PROHIBITION OF CERTAIN TELECOM AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

KCAPTA is prohibited from obligating or expending loan or grant funds to:

- A. Procure or obtain;
- B. Extend or renew a contract to procure or obtain; or
- C. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporations (or any subsidiary or affiliate of such entities).
  - 1. For the purpose of public safety, security of government facilities, physical security surveillance or critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology (or any subsidiary or affiliate of such entities).
  - 2. Telecommunications or video surveillance services provided by such entities or using such equipment.
  - 3. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of Federal Bureau of Investigation, reasonable believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- D. In implementing the prohibition under Public Law 115-232, section 889, subsection (f) paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonable necessary for those affected entities of transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
- E. CONTRACTOR represents and warrants that it has performed a due diligence review of its supply chain and that no such "covered telecommunications equipment or services" shall be provided to KCAPTA that would cause KCAPTA to be in violation of the prohibition contained in the Act.

AA. NOTIFICATION TO FTA/ LEGAL MATTERS CONCERNING A COVERED TRANSACTION

If a current or prospective legal matter that may affect the Federal Government emerges, the AGENCY must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the AGENCY is located. The AGENCY must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a "covered transaction" according to C.F.R. §§ 180.220 & 1200.220.

(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 Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

(3) The AGENCY 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, if the AGENCY has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The



notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the AGENCY and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the AGENCY.

**XV. MISCELLANEOUS PROVISIONS**

- A. FIRM covenants that he presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of service required hereunder.
  
- B. FIRM will not discriminate against any employee, or applicant for employment, because of race, color, religion, sex, marital status, or national origin. FIRM will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, marital status, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

IN WITNESS WHEREOF, this Agreement is executed on the day and year first above written.

KINGS COUNTY AREA PUBLIC TRANSIT AGENCY

CONTRACTOR

\_\_\_\_\_  
Joe Neves, Chairman

\_\_\_\_\_  
Name  
Title

Approved as to Form

\_\_\_\_\_  
General Counsel

Attachments:

Exhibit "A": Scope of Work

Exhibit "B": Price Proposal

## SECTIONS 3: SCOPE OF WORK

### 3.0. OVERVIEW

The mission of the AGENCY is to provide safe, reliable, courteous, accessible and user-friendly transportation services to the residents and visitors of Kings County. The AGENCY is seeking a qualified, experienced, responsible, capable, and professional firm for a contract to provide security guard staffing services (armed security personnel is not required) for the KART Transit Center.

The AGENCY will evaluate each complete proposal submitted. Negotiations may or may not be conducted with respondents; therefore, the proposal submitted should contain the respondent's most favorable terms and conditions, since the selection and award may be made without discussion to any respondent.

It is the intent of the Agency to award a contract to the best-qualified firm that demonstrates experience in performing transit financial and compliance audits. During the evaluation process, the Agency reserves the right, where it may serve the Agency's best interest, to request additional information or clarifications from proposing firms, or to allow corrections of errors or omissions.

### 3.1. RESPONSIBILITIES & SERVICES OF CONTRACTOR

- From the beginning of the contract until late Summer 2025, the firm shall provide security guard staffing at the AGENCY's Bus Terminal at 504 W 7<sup>th</sup> St. Once the new KART Transit Center is completed, Security services will then be provided at 200 E. 7<sup>th</sup> St.
- The firm shall be responsible for recruiting, screening and hiring employees for the assignment in accordance with the job requirements of the AGENCY. Copies of State License Guard Cards, issued by the State of California shall be presented to the Contract Administrator at least two (2) days prior to the Guards' Inclusion on the work schedule. Temporary cards are not acceptable.
- The Firm shall provide background checks on all personnel and update on an annual basis.
- The Firm shall provide pre-employment drug screening of employees.
- The AGENCY reserves the right to require the Firm to discontinue the use of any employee which the AGENCY feels is incompetent, unqualified or guilty of improper conduct. Firm shall waive charges for said employee if notified by AGENCY within four (4) hours after the employee reports to work.

### 3.2 EQUIPMENT AND MATERIALS

- The Firm shall be responsible for providing all required equipment necessary to provide the required services. All materials and equipment shall be maintained in good working order. In the event any equipment fails to function, the Firm shall arrange for immediate replacement. The contractor shall be responsible for supplying batteries for all equipment.
- The Firm shall provide (at a minimum) radios, flashlights and any other equipment necessary to adequately satisfy the Firm's duties and responsibilities.

Security Guards reporting for service must have the following equipment/ materials:

- A two-way radio or mobile (cellular) phone to communicate with the Contractor's office.
- A heavy duty, police type, flashlight

- o Patrol log or notebooks for writing details and appropriate reporting forms

In the event AGENCY agrees to furnish a piece of equipment to the Firm for the purpose of performing the job, the Firm shall be responsible for paying for repairs to said equipment and damage which is not a result of normal wear and tear. If equipment is lost or stolen, firm must replace equipment with same make and model.

### 3.3 UNIFORMS

The Firm shall be responsible for providing all uniforms and/or items of clothing worn by Security Staff. Examples of clothing and or uniform items include, but are not limited to: shirts, ties, jackets, vests, polo-type shirts, uniforms, etc. All uniform items worn shall be identified as such. All uniforms must be kept clean and professional at all times. Failure to maintain a neat, clean and professional appearance and uniform may result in removal from the work site by the AGENCY's Executive Director or designee. Non-approved uniform attire may also result in removal from the work site.

### 3.4 QUALIFICATIONS OF SECURITY GUARD STAFF

The Firm shall ensure that all Security Guard Staff meet the following qualifications:

- Possess permanent State License Guard Card, issued by the State of California (Temporary or provisional cards are not acceptable).
- Possess a valid California Driver's License.
- Have basic log and reporting skills
- Possess basic telephone etiquette
- Possess fundamental customer service skills
- Have knowledge of common and acceptable patrol techniques.
- Have familiarity with fire protection and alarm systems
- Be proficient in operation of two(2) way radios
- Possess fundamental skills for interaction with City of Hanford Police Department Officers and City Personnel.
- Guards shall possess an acceptable level of agility, stamina, and overall good physical health.
- All guards shall be capable of lifting up to fifty (50) pounds
- All guards shall be able to stand for prolonged periods- up to eight (8) hours.
- Guards shall be proficient in English, both written and oral communication
- Guards shall be capable of operating and responding to radios, pagers, telephones, alarms and camera equipment.

### 3.5 RESPONSIBILITIES/DUTIES TO BE PERFORMED BY SECURITY GUARD STAFF

- Patrolling and monitoring activities on the company's premises regularly to discourage criminals and ensure the environment is safe and secure
- Evicting trespassers and violators and detaining perpetrators while following legal protocols before relevant authorities arrive to take over
- Monitoring surveillance cameras to watch out for any disruptions or unlawful activities
- Exhibit strong customer service attitude.
- Area restriction enforcement ("No Smoking Area", "No Loitering", No Trespassing).
- Provide accurate, legible, detailed reports of daily activities and deliver them to the AGENCY weekly. Reports should include, but not limited to all unsafe conditions of property and any accidents or injuries or incidents occurring on property. In the event of emergency, incidents shall be reported to the AGENCY's designated contact immediately.
- Work with local law enforcement agencies to maximize efforts at the AGENCY's Transit Center.
- Exhibits and maintains poise and self-control.
- Capable of self-defense.
- Ability to meet and deal tactfully with government personnel, facility employees and the general public.
- Ability to understand, explain, interpret and apply rules, regulations, directives and procedures.
- Possess poise, self-confidence and an ability to make sound decisions and react quickly under stressful conditions.
- Able to prepare clear and concise reports.
- Ability to learn and adapt to changing situations.
- Ability to accept and respond to instruction and direction.
- Guards must be on site at the scheduled post hours. Failure to appear on time without prior approval shall result in removal from post. If a Guard is unable to arrive on site at the designated time, the Guard is responsible for contacting their supervisor immediately in order to assure all scheduled shifts are staffed according to the post hours.
- Visitors, friends, or family members are not allowed on post while Guard is on duty.
- The use of radios, cassette/CD players, I-Pods, TV's ear plugs is prohibited while Guard is on duty.
- Sleeping on duty is prohibited. If it is determined that a Guard is unaware of their surroundings or appears to be sleeping on duty, their supervisor shall be immediately notified and the Guard shall be relieved of their post.

# 5.0 Price Proposal

## ATTACHMENT PRICESHEET

Enter below the proposed price for Security Services as described in the Scope of Work, Section 3. Price shall be provided in a 'rate per hour' form and must be all inclusive (including, but not limited to-profit, taxes, benefits, Minimum Wage, transportation, fees surcharges, training/certifications and uniforms).

STANDING GUARD	MON-SUN	KART(4) WORKING HOLIDAYS
Year One	\$ 31.00	\$ 46.50
Year Two	\$ 31.93	\$ 47.90
Year Three	\$ 32.89	\$ 49.34
Year Four	\$ 33.88	\$ 50.82
Year Five	\$ 34.07	\$ 51.11

Price shall be provided in a 'per patrol' form and must be all inclusive (including, but not limited to-profit, taxes, benefits, Minimum Wage, transportation, fees surcharges, training/certifications and uniforms).

PATROL SERVICE	MON-SUN	KART(4) WORKING HOLIDAYS
Year One	\$ 31.00	\$ 46.50
Year Two	\$ 31.93	\$ 47.90
Year Three	\$ 32.89	\$ 49.34
Year Four	\$ 33.88	\$ 50.82
Year Five	\$ 34.07	\$ 51.11

ARE THERE ANY ADDITIONAL AND/OR INCIDENTAL COSTS NECESSARY IN ORDER TO FULLY COMPLY WITH THIS RFP?

YES  NO  IF YES, please attached additional pages to explain all such costs.