

**AGREEMENT BETWEEN
THE HUMBOLDT TRANSIT AUTHORITY AND**

FOR PROJECT 26-01 OFFICE REMODEL AT 133 V STREET, EUREKA

This Contract is made and entered into on _____, 2026 by and between the Humboldt Transit Authority (“HTA”), a joint powers authority, and _____ a _____ (“Contractor”). HTA and Contractor are sometimes referred to herein each as a “Party” and collectively as the “Parties.” This Agreement is effective as of the date of the last Party signing below (“Effective Date”).

RECITALS

- A. HTA is the recipient of a grant award from the California State Transportation Agency Transit and Intercity Rail Capital Program awarded for, among other purposes, the design and installation of a hydrogen fueling station, which requires the demolition of an existing structure, called the Cedar House. The demolition of the Cedar House structure requires a relocation of Cedar House staff into the Office Remodel area.
- B. HTA conducted an open and competitive process for the OFFICE REMODEL, IFP No. _____, in accordance with the procurement requirements of State and Federal law and regulation. Pursuant to that process, HTA awarded the contract to Contractor as the lowest responsive, responsible bidder.

NOW, THEREFORE, the Parties agree as follows:

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions); the Project Drawings; all other drawings, Project Manual Technical Specifications; all other specifications; and Addenda issued prior to execution of this Agreement; other documents listed in this Agreement; and Modifications issued after execution of this Agreement, all of which form the Contract, and are fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents and their order of precedence appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

§ 2.1 The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others. All Work must be completed in accordance with the Contract Documents and the following Exhibits to this Agreement, attached hereto and incorporated herein:

- Exhibit A - Claims and Disputes, Public Contract Code Section 9204
- Exhibit B – Insurance Requirements
- Exhibit C – Labor Code Compliance
- Exhibit D – California Department of Transportation Requirements
- Exhibit E – FTA and Additional California Department of Transportation Requirements

§ 2.2. Prevailing Wage. The Work is subject to payment of minimum prevailing wages, compliance monitoring, and enforcement by the Department of Industrial Relations (“DIR”). Contractor and Subcontractors will not pay less than the prevailing rates of wages. HTA shall have a copy of the

prevailing wage rate of per diem wages available at its principal office, which shall be made available through HTA's Project Manager. Contractor will make available at least one copy of the prevailing rates of wages at the job site. Contractor shall forfeit as penalty to the City the sum of up to two hundred dollars (\$200.00) for each calendar day or portion thereof, and for each worker paid less than the prevailing rates under the Contract (Labor Code § 1775).

The Work may be additionally subject to the payment of federal prevailing wages, compliance monitoring, and enforcement by the United States Department of Labor. In such event, HTA will obtain the wage determination applicable to the Work, and maintain a copy of such rates with its Project Manager. The Contractor shall be responsible for determining whether state or federal rates apply for the individual trades, and shall be responsible for satisfying all requirements for paying the prevailing rates.

ARTICLE 3 DATE OF COMPLETION AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date set forth in a notice to proceed issued by the Owner.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

Not later than _____ () calendar days from the date of commencement of the Work

By the following date: April 21, 2026

§ 3.3.2 Subject to adjustments of Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

| Portion of Work | Substantial Completion Date |
|------------------------|------------------------------------|
|------------------------|------------------------------------|

N/A

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be _____ (\$_____), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 [Intentionally omitted]

§ 4.3 [Intentionally omitted]

§ 4.4 [Intentionally omitted]

§ 4.5 Liquidated damages, if any:

In the event that the completion of the Project is delayed beyond the time specified in the Contract Documents due to the fault of Contractor, and the delay is not otherwise excused, then the Contractor shall pay to the Owner the sum of One Thousand Dollars (\$1,000.00) per day as liquidated damages for

each calendar day during which completion of the Project is delayed beyond the time specified for completion. The Parties acknowledge that calculation and proof of actual damages due to such delays are difficult to estimate on the date this agreement is made, and that the provision made herein are a fair and good faith estimate of actual damages Owner may suffer in the event of such delays. This provision is not intended to constitute a penalty cause.

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for progress payment submitted to the Engineer by the Contractor and Certificates for Payment issued by the Engineer, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 [Intentionally omitted]

§ 5.1.3 Pursuant to Section 20104.50 of California Public Contract Code, Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Certificate for Payment within 30 days after receipt.

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Engineer may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for a Payment.

§ 5.1.6 In accordance with the General Conditions, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1** The portion of the Contract Price properly allocable to completed Work;
- .2** That portion of the Contract Price properly allocable to materials and equipment delivered and suitably stored at the site for the subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off site at a location that is agreed upon in writing; and
- .3** That portion of any Change Order or other modification that the Engineer determines, in the Engineer's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1** The aggregate of any amounts previously paid by the Owner;
- .2** The amount, if any, for Work that remains uncorrected and for which the Engineer has previously withheld a Certificate of Payment;
- .3** Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4** For Work performed or defects discovered since the last payment application, any amount for which the Engineer may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of the General Conditions;
- .5** Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner will withhold five percent (5%) from the payment otherwise due. Pursuant to and in the manner set out in California Public Contract Code Section 22300, Contractor may, at Contractor's request and expense, substitute securities in place of retained funds held by the City. At the request and expense of the Contractor, securities equivalent to the amount withheld shall be deposited with the HTA, or with a state or federally chartered bank in this state as the escrow agent, who shall then pay those moneys to the Contractor. Upon satisfactory completion of the Contract, the securities shall be returned to the Contractor. Any escrow agreement required hereunder shall be substantially similar to the statutory form mandated in Public Contract Code Section 22300.

§ 5.1.7.2 [Intentionally omitted]

§ 5.1.7.3 Pursuant to Public Contract Code Sections 7201, 7207, and 9203, undisputed retention shall be paid by Owner within sixty (60) days after completion of the Work, subject to the continued withholding by Owner of up to 150% of disputed amounts or 125% pursuant to a stop payment notice.

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with the Contract Documents.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in the Contract Documents, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Engineer.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Engineer's final Certificate for Payment.

§ 5.3 Interest

Payment due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Intentionally Omitted

§ 6.2 **Claims and Dispute Resolution.** All Claims and disputes will be submitted and resolved in accordance with the Contract Documents to the extent not in conflict with California Public Contract Code §9204, attached hereto as Exhibit A and incorporated herein.

ARTICLE 7 Intentionally omitted

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made to in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 Insurance. The Contractor shall purchase and maintain insurance as set forth in Exhibit B. Contractor shall deliver to Owner all certificates, endorsements and other evidence of insurance meeting the requirements set forth in Exhibit B no later than the time of signing this Agreement. All Work shall be performed entirely at the Contractor's risk. Prior to the beginning of and throughout the duration of the Work, Contractor shall procure and maintain for the duration of the contract, and for a minimum of five (5) years after completion of all Work, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder by the Contractor, his agents, representatives, employees, or subcontractors. All insurance carriers shall be admitted in the state of California and have an A.M. Best's rating of A- or better and minimum financial size VII. Coverage shall be at least as broad as the set forth in Exhibit B, attached hereto and incorporated herein.

§ 8.5.2 The Contractor shall provide bonds as set forth in the Contract Documents.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 Each of the Contract Documents is an essential part of the Contract, and is binding upon the Contractor in the performance of the Work. The Contract Documents consist of the following, set forth hereafter in their order of precedence. The order of precedence shall be used to resolve any conflict between the Contract Documents:

- .1 Change Orders, Construction Change Directives, written order for minor change, and other Contract Modifications
- .2 This Agreement including all Exhibits and Modifications
- .3 Engineer-approved Specifications, Plans, Shop Drawings
- .4 Standard Terms and Conditions of the Contract and Special Provisions
- .5 Project Manual Technical Specifications
- .6 Project Drawings
- .6 Performance Bond
- .7 Payment Bond
- .8 Contractor's Bid
- .9 IFB

This Agreement entered into as of the day and year first written above.
[Signatures]

EXHIBIT A
Claims and Disputes
Public Contract Code Section 9204

(a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3) (A) "Public entity" means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) "Public entity" shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) “Public works project” means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) “Subcontractor” means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d) (1) (A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2) (A) If the claimant disputes the public entity’s written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on their own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2027, deletes or extends that date.

EXHIBIT B INSURANCE REQUIREMENTS

Contractor shall procure and maintain for the duration of the contract, and for five years thereafter, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, their agents, representatives, employees, or subcontractors.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$5,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form CA 0001 covering Code 1 (any auto), with limits no less than **\$5,000,000** per accident for bodily injury and property damage.
3. **Workers’ Compensation** insurance as required by the State of California, with Statutory Limits, and Employers’ Liability insurance with a limit of no less than **\$1,000,000** per accident for bodily injury or disease.
4. **Builder’s Risk** (Course of Construction) insurance utilizing an “All Risk” (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions.
5. **Surety Bonds** as described below.
6. **Professional Liability** (if Design/Build), with limits no less than **\$2,000,000** per occurrence or claim, and **\$2,000,000** policy aggregate.
7. **Contractors’ Pollution Legal Liability** and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than **\$1,000,000** per occurrence or claim, and **\$2,000,000** policy aggregate.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, HTA requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to HTA.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the HTA. The HTA may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or HTA. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$25,000 [fill in the amount for your comfort level for the specific Contractor and job – it could be much higher, or in the case of a very small Contractor, you might want it lower] unless approved in writing by HTA. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. HTA may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named Insured. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. HTA reserves the right to obtain a copy of any policies and endorsements for verification.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

- 1. The HTA, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, CG 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).
- 2. For any claims related to this project, the Contractor's insurance coverage shall be primary and non-contributory** insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the HTA, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the HTA, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.
- 3. Each insurance policy required by this clause shall provide that coverage shall not be canceled, except with notice to the HTA.**

Builder's Risk (Course of Construction) Insurance

Contractor may submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage shall **name the HTA as a loss payee** as their interest may appear.

If the project does not involve new or major reconstruction, at the option of the HTA, an Installation Floater may be acceptable. For such projects, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery, or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the HTA's site.

Umbrella or Excess Policies

The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.

Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best rating of no less than A: VII, unless otherwise acceptable to the HTA.

Waiver of Subrogation

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. **The Workers' Compensation policy shall be endorsed with a waiver of subrogation** in favor of the HTA for all work performed by the Contractor, its employees, agents and subcontractors.

Verification of Coverage

Contractor shall furnish the HTA with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause **and a copy of the Declarations and Endorsements Pages of the CGL and any Excess policies listing all policy endorsements**. All certificates and endorsements and copies of the Declarations & Endorsements pages are to be received and approved by the HTA before work

commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The HTA reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. HTA reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance meeting all requirements stated herein, and Contractor shall ensure that HTA is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a form at least as broad as CG 20 38 04 13.

Duration of Coverage

CGL & Excess liability policies **for any construction related work, including, but not limited to, maintenance, service, or repair work**, shall continue coverage for a minimum of 5 years for Completed Operations liability coverage. Such Insurance must be maintained and evidence of insurance must be provided ***for at least five (5) years after completion of the contract of work.***

Special Risks or Circumstances

HTA reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

EXHIBIT C
LABOR CODE COMPLIANCE

Contractor shall comply with and be bound by, and shall ensure that all Subcontractors agree to comply with and be bound by, the following:

1. **Excavation Work.** Pursuant to California Labor Code Section 6705, excavation of any trench or trenches 5 feet or more in depth, involving estimated expenditures in excess of \$25,000 shall require, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection prepared by a registered civil or structural engineer.
2. **Contractor Registration.** All Work on the Project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations (DIR).
3. **Prevailing Wage.** Pursuant to Sections 1770 et seq., California Labor Code, the Construction Work contractors and subcontractors not less than the prevailing rate of per diem wages as determined by the Director of California Department of Industrial Relations. Contractor is responsible for contacting the DIR for applicable determinations of the prevailing rates of per diem, holiday, and overtime wages in the locality where the work is to be performed. The Contractor shall be responsible for satisfying all requirements for paying the prevailing rates.
4. **Workers Compensation Certification.** Contractor, by signing this Agreement, certifies the following:

"I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the Work of this Contract."
5. **Apprentices.** Nothing in this Agreement shall prevent Contractor or any Subcontractor from employing properly registered apprentices in the execution of the Agreement. Contractor shall have responsibility for compliance with California Labor Code Section 1777.5 for all apprenticeable occupations.
6. **Penalties.** In accordance with Section 1775, California Labor Code, Contractor shall forfeit to HTA, as a penalty, not more than \$50 for each calendar day, or portion thereof, for each worker paid, either by Contractor or any Subcontractor, less than the prevailing rates as determined by the Director of California Department of Industrial Relations for the Work.
7. **Overtime.** In the performance of the Work, a day's work shall be 8 hours of labor in any workday and 40 hours in any work week and any other work as required by Section 510, California Labor Code, and Contractor shall further conform to the requirements of Section 1813, California Labor Code, or forfeit to HTA, as a penalty, the sum of \$25 for each worker employed in the execution of the Work by Contractor or any Subcontractor, for each day during which any worker is required or permitted to labor more than 8 hours in any workday or more than 40 hours in any 1 calendar week in violation of Section 510.
8. **Workers Compensation Insurance.** Contractor shall carry workers' compensation insurance and require Subcontractors to carry workers' compensation insurance as required by Section 3700, California Labor Code.

EXHIBIT D
CALIFORNIA DEPARTMENT OF TRANSPORTATION REQUIREMENTS

Contractor shall comply with and be bound by, and shall ensure that all Subcontractors agree to comply with and be bound by, the following:

1. Audits and Records

a. Cost Principles:

- i. Contractor agrees, and will ensure that all Subcontractors will be obligated to follow, the federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Title 2, Chapter II, Part 200 of the Code of Federal Regulations (2 CFR Part 200) to determine the allowability of individual Project cost items.
- ii. Travel and per diem reimbursements and third-party contract reimbursements to Contractor and any of Subcontractors will be allowable as Project costs only after those costs are incurred and paid for by Contractor or the Subcontractor, as appropriate.
- iii. Any Project costs for which HTA has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR Part 200, are subject to repayment by Consultant to HTA. Should Contractor fail to reimburse moneys due HTA within thirty (30) days of demand, or within such other period as may be agreed in writing between the Parties hereto, HTA is authorized to intercept and withhold future payments due to Contractor from HTA.
- iv. HTA may terminate this Agreement for any reason at any time if it is determined by the State or HTA, based on an audit under this section, that there has been a violation of any State or federal law or policy by Contractor during performance under this agreement. If this Agreement is terminated under this section, Contractor may be required to fully or partially repay funds.

b. Record Retention.

- i. Contractor agrees to, and will cause all Subcontractors to agree to, establish and maintain an accounting system and records that properly accumulate and segregate incurred Project costs and matching funds by line item for the Project which shall conform to Generally Accepted Accounting Principles (GAAP), to enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices. All accounting records and other supporting papers of Contractor, and all Subcontractors, connected with Project performance under this Agreement shall be maintained for a minimum of three (3) years from the date of final payment to HTA under the Master Agreement and shall be held open to inspection, copying, and audit by representatives of State, the California State Auditor, federal government auditors, and HTA. Copies thereof will be furnished by Contractor and all Subcontractors upon receipt of any request made by the State, its agents, or HTA or its agents.
- ii. Contractor shall, and will cause all Subcontractors to agree to, maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts. Contractor, and all Subcontractors, shall make such materials available at their respective offices at all reasonable times during the entire Project period and for three (3) years from the date of final payment to HTA under the Master Agreement. The State, the California State Auditor, or any duly authorized representative of the State or the United States Department of Transportation, shall each have access to any books, records, and documents that are pertinent to the Project for audits, examinations, excerpts, and transactions, and Contractor shall furnish copies thereof if requested.

- iii. Contractor shall, and will cause its contractors and subcontractors to agree to, permit access to all records of employment, employment advertisements, employment application forms, and other pertinent data and records by the California Fair Employment Practices and Housing Commission, or any other California State agency as may be designated by the State, for the purpose of any investigation to ascertain compliance with the Master Agreement and the Global Warming Solutions Act of 2006 (Health and Safety Code §§ 38500 et seq.).
- c. **Reporting Requirements.** Contractor agrees that, in addition to the requirements in the General Conditions, it will provide on a schedule determined by HTA reports of the following:
 - i. Annual jobs reporting using the template provided in Attachment 4.5 of the RFP. Reporting will be for each calendar year and will be submitted no later than December 15th of the reporting year, or the nearest business day before December 15th of the reporting year. Reporting will include all jobs funded by the Contract Price, less Annual Fuel Charges.

2. **Nondiscrimination.**

- a. In the performance of work under this Agreement, Contractor shall, and will cause all Subcontractors to agree to, not unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability, mental disability, medical condition, age, marital status, family and medical care leave, pregnancy leave, and disability leave. Contractor shall, and will cause all Subcontractors to agree to, ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor shall, and will cause all Subcontractors to agree to, comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900 et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full.
- b. Contractor shall, and will cause all Subcontractors to, give written notice of their obligations under this clause to labor organizations with which they have collective bargaining or other labor agreements or other agreements, as appropriate. Contractor shall, and will cause all Subcontractors to, permit access to all records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission or any other agency of the State of California designated by Department to investigate compliance with this Section.

EXHIBIT E
FTA AND ADDITIONAL
CALIFORNIA DEPARTMENT OF TRANSPORTATION REQUIREMENTS

Contractor shall comply with and be bound by, and shall ensure that all Subcontractors agree to comply with and be bound by, the following:

1. No Obligation to Third-Parties by use of a Disclaimer

- a. No Federal Government Obligation to Third Parties.** Contractor agrees that, absent the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to any contractor, any third-party contractor, or any other person not a party to the grant agreement in connection with the performance of the Project. Notwithstanding any concurrence provided by the Federal Government in or approval of any solicitation, or third-party agreement, the Federal Government continues to have no obligation or liabilities to any party, including Contractor or a third-party contractor.
- b. Third-Party Contracts and Subcontracts Affected.** To the extent applicable, federal requirements extend to third-party contractors and their contracts at every tier, and to the subcontracts of third-party contractors and the subcontracts at every tier. Accordingly, Contractor agrees to include, and to require its third-party contractors to include appropriate clauses in each third-party contract and each subcontract financed in whole or in part with financial assistance provided by the FTA.
- c. No Relationship between the California Department of Transportation and Third-Party Contractors.** Nothing contained in this Contract or otherwise, shall create any contractual relationship, obligation or liability between the California Department of Transportation and any third-party contractors, and no third-party contract shall relieve Contractor of its responsibilities and obligations hereunder. Contractor agrees to be fully responsible to HTA for the acts and omissions of its third-party contractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Contractor. Contractor's obligation to pay its third-party contractors is an independent obligation from HTA's obligation to make payments to Contractor. As a result, the California Department of Transportation shall have no obligation to pay or to enforce the payment of any moneys to any third-party contractor.
- d. Obligations on Behalf of the California Department of Transportation.** Contractor shall have no authority to contract for or on behalf of, or incur obligations on behalf of the California Department of Transportation.
- e. HTA Approval of Subcontracts.** HTA shall approve in writing all proposed subcontracts, memoranda of understanding (MOU), or similar documents relating to the performance of the Contract prior to implementation. Contractor agrees that it will not enter into any subcontracts unless the same are approved in writing by HTA. Any proposed amendments or modifications to such subcontracts must be approved by HTA prior to implementation. HTA agrees to approve or reject all such subcontracts, memoranda of understanding (MOU), or similar documents submitted for HTA approval within seven (7) business days of Contractor's submission to HTA. All such submissions will be deemed accepted thirty (30) days after submission, unless expressly rejected by HTA within such time.

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

- a.** Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. Section 3801 et seq. and US Department of Transportation regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of the Agreement, Contractor certifies or affirms the truthfulness and accuracy of

affect construction activities undertaken in the course of the Project. Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection from training, including apprenticeship. In addition, Contractor agrees to comply with any implementing requirements the California Department of Transportation on any issue.

- b. Nondiscrimination.** Contractor, with regard to the work performed by it during the contract term shall act in accordance with Title VI. Specifically, Contractor shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. Department of Transportation's Regulations, including employment practices when the Contract covers a program whose goal is employment. Further, in accordance with Section 102 of the Americans with Disabilities Act (ADA), as amended, 42 U.S.C. Section 12112, Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, Contractor agrees to comply with any implementing requirements the California Department of Transportation may issue.
- c. Solicitations for Subcontractors Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation by Contractor for work performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Contractor of the subcontractor's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- d. Information and Reports.** Contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by HTA or the California Department of Transportation to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of Contractor is in the exclusive possession of another who fails or refuses to furnish the information, Contractor shall certify to HTA or the California Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.
- e. Sanctions for Noncompliance.** In the event of Contractor's noncompliance with the nondiscrimination provisions of the Contract, HTA shall:

 - i. Withhold payment to Contractor under the Contract until Contractor complies, and/or
 - ii. Cancel, terminate, or suspend the Contract, in whole or in part.
- f. Incorporation of Provisions.** Contractor shall include the provisions of this Civil Rights Section in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. Contractor will take such action with respect to any Subcontractor or procurement as HTA or the California Department of Transportation may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such directions, Contractor may request HTA to enter into such litigation to protect the interest of HTA, and, in addition, Contractor may request the California Department of Transportation to enter into such litigation to protect the interests of the California Department of Transportation.

- g. Section 504 and Americans with Disabilities Act Program Requirements.** Contractor will comply with 49 CFR Parts 27, 37, and 38, implementing and Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794, as amended.
- 8. Incorporation of FTA Terms.** The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F 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. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any California Department of Transportation requests which would cause the California Department of Transportation to be in violation of the FTA terms and conditions. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any HTA requests which would cause HTA to be in violation of the FTA terms and conditions.
- 9. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.**
- a.** HTA is prohibited from obligating or expending loan or grant funds to procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain any equipment, services, or system that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, where “covered telecommunications” is described in Public Law 115-232, section 889, as telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - i.** For the purpose of public safety, security of government facilities, physical security surveillance of 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 Company (or any subsidiary or affiliate of such entities).
 - ii.** Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iii.** Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
 - b.** 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 reasonably necessary for those affected entities to 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.
 - c.** 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 HTA that would cause HTA to be in violation of the prohibition contained in the Act.
- 10. Energy Conservation.** Contractor agrees to comply with the mandatory energy efficiency standards and policies within the applicable California Department of Transportation energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42, U.S.C. Section 6321 et seq.
- 11. Safe Operation of Motor Vehicles**

- a. **Seat Belt Use.** Contractor agrees to implement Executive Order No. 13043, “Increasing Seat Belt Use in the United States,” April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by: (1) Adopting and promoting 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; and (2) Including a “Seat Belt Use” provision in each subcontract related to the FTA grant award.
- b. **Distracted Driving, Including Text Messaging While Driving.** Contractor agrees to comply with: (1) Executive Order No. 13513, “Federal Leadership on Reducing Text Messaging While Driving,” October 1, 2009, 23 U.S.C. § 402 note, (74 Fed. Reg. 51225); (2) U.S. DOT Order 3902.10, “Text Messaging While Driving,” December 30, 2009; and (3) The following U.S. DOT Special Provision pertaining to Distracted Driving:
 - i. **Safety.** 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 HTA owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the FTA grant award, or when performing any work for or on behalf of the FTA grant award;
 - ii. **Size.** Contractor agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving; and
 - iii. **Extension of Provision.** Contractor agrees to include the preceding Safe Operation of Motor Vehicles provisions from this Agreement in its subcontracts and at each tier supported with federal assistance, and encourage compliance with this provision.

12. Additional Termination Provisions

- a. **Termination for Convenience (General Provision).** When it is in HTA’s best interest, HTA reserves the right to terminate this Contract, in whole or in part, at any time by providing a TEN (10) DAY WRITTEN NOTICE to Contractor. Contractor shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to HTA. If Contractor has any property in its possession belonging to HTA, Contractor will account for the same, and dispose of it in the manner HTA directs.
- b. **Termination for Default (General Provision).** If Contractor does not deliver supplies in accordance with the Contract delivery schedule, or, if the contract is for services, Contractor fails to perform in the manner called for in the Contract, or if Contractor fails to comply with any other provisions of the Contract, HTA may terminate this Contract for default. Termination shall be effected by serving a notice of termination on Contractor setting forth the manner in which Contractor is in default. Contractor will only be paid 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 HTA that 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 Contractor, HTA, after setting up a new delivery of performance schedule, may allow Contractor to continue work, or treat the termination as a termination for convenience.
- c. **Mutual Termination.** The Project may also be terminated if HTA and Contractor agree that its continuation would not produce beneficial results commensurate with the further expenditure of funds or if there are inadequate funds to operate the Project equipment or otherwise complete the Project.

13. Debarment and Suspension

- a. Contractor agrees to comply with the requirements of Executive Order Nos. 12549 and 12689, “Debarment and Suspension,” 31 U.S.C. Section 6101 note; and U.S. DEPARTMENT OF TRANSPORTATION regulations on Debarment and Suspension and 49 CFR Part 29.
- b. Unless otherwise permitted by the California Department of Transportation, Contractor agrees to refrain from awarding any third-party contract of any amount to or entering into any sub-contract of any amount with a party included in the “U.S. General Services Administration’s (U.S. GSA) List of Parties Excluded from Federal procurement and Non-procurement Program,” implementing Executive Order Nos. 12549 and 12689, “Debarment and Suspension” and 49 CFR Part 29. The list also include the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible for contract award under statutory or regulatory authority other than Executive Order Nos. 12546 and 12689.
- c. Before entering into any subcontracts with any Subcontractor, Contractor agrees to obtain a debarment and suspension certification from each prospective recipient containing information about the debarment and suspension status of that Subcontractor and its “principals,” as defined at 49 CFR Part 29.
- d. Before entering into any third-party contract exceeding \$25,000.00, Contractor agrees to obtain a debarment and suspension certification from each third-party contractor containing information about the debarment and suspension status of that third-party contractor and its “principals,” as defined at 49 CFR 29.105(p). Contractor also agrees to require each third-party contractor to refrain from awarding any subcontracts of any amount, at any tier, to a debarred or suspended subcontractor, and to obtain a similar certification for any third-party subcontractor, at any tier, seeking a contract exceeding \$25,000.00.

14. Legal Matters Concerning a Covered Transaction

- a. If a current or prospective legal matter that may affect the Federal Government or the State emerges, Contractor must promptly notify HTA. Contractor shall include an equivalent provision in its subcontracts at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.
 - i. 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 or State as a party to litigation or a legal disagreement in any forum for any reason.
 - ii. Matters that may affect the Federal Government or State include, but are not limited to, the Federal or State Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal or State Government’s administration or enforcement of federal laws, regulations, and requirements.
 - iii. Contractor must promptly notify HTA if it has knowledge of potential fraud, waste, or abuse occurring on the Project. This 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 involving FY2020 Contractors Manual – Procurement 9-49 federal assistance. This requirement applies to Contractor’s 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 Recipient. In this paragraph, “promptly” means to refer information without delay and without change.

15. Provisions for Resolution of Disputes, Breaches, or Other Litigation. HTA and Contractor shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, Contractor shall

submit to HTA a written demand for a decision regarding the disposition of any dispute arising under this Contract. HTA shall make a written decision regarding the dispute and will provide it to Contractor. Contractor shall have the opportunity to challenge in writing within ten (10) working days to HTA. If Contractor's challenge is not made within the ten (10) day period, HTA's decision shall become the final decision of HTA. HTA and Contractor shall submit written, factual information and supporting data in support of their respective positions. The decision of HTA shall be final, conclusive, and binding regarding the dispute, unless Contractor commences an action in court of competent jurisdiction to contest the decision in accordance with Division 3.6 of the California Government Code.

16. Lobbying

- a. Contractor agrees that it will not use federal assistance funds to support lobbying.
- b. If applicable, 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 office or employee of any federal 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, Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with the form instructions.
- c. Contractor shall require that the language of the above two clauses 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) which exceed \$100,000.00.
- d. This Contract is a material representation of facts upon which reliance was placed when the Contract was made or entered into. These provisions are a prerequisite for making or entering into a Contract imposed by Section 1352, Title 31, U.S. Code. Any person who fails to comply with these provisions shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each failure.

17. Clean Water

- a. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. Contractor agrees to report each violation to HTA and understands and agrees that HTA will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- b. Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

18. Buy America. Contractor shall comply with the Buy-America requirements of 49 U.S.C. 5323(j) and 49 CFR Part 661 for all procurements of steel, iron, and manufactured products used in Project. Buy-America requirements apply to all purchases, including materials and supplies funded as operating costs, if the purchase equals or exceeds \$150,000.00. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(c) and 49 CFR 661.11. Rolling stock must be assembled in the United States and have a 70 percent domestic content.

19. Clean Air

- a. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq. Contractor agrees to report each violation to HTA and understands and agrees that HTA will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- b. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

20. U.S. Flag Requirements (Cargo Preferences) (Fly America)

- a. Shipments by Ocean Vessel.** For third-party contacts that may involve equipment, materials, or commodities which may be transported by ocean vessels, Contractor and subcontractors must comply with 46 U.S.C. Section 55303 and 46 CFR Part 381, “Cargo Preferences-U.S. Flag Vessels.”
- b. Shipments by Air Carrier.** For third-party contracts that may involve shipments of federally assisted property by air carrier, Contractor and subcontractors must comply with the “Fly America” Act and 49 U.S.C. Section 40118, “Use of United States of America Flag Carriers,” and 41 CFR Section 301-10.131 through 301-10.143.
- c. Project Travel.** In accordance with Section 5 of the International Air Transportation Fair Competitive Practices Act of 1973, as amended, (“Fly America” Act), 49 U.S.C. 40118 and 41 CFR Part 301-10, Contractor and all subcontractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation, to the extent such service is available or applicable.

21. Intelligent Transportation Systems (ITS) National Architecture. To the extent applicable, Contractor agrees to conform to the National Intelligent Transportation System (ITS) Architecture and Standards as required by 23 U.S.C. Section 517(d), 23 U.S.C. Section 512 note, and 23 CFR Part 655 and 940, and follow the provisions of the FTA Notice, “FTA National ITS Architecture Policy on Transit projects,” 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives the FTA may issue at a later date, except to the extent the FTA determines otherwise in writing.

22. Disadvantaged Business Enterprises (DBE)

- a. DBE Contract Assurance.** Contractor and its Subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Contractor and its Subcontractors shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of Federal DOT-assisted contracts. Failure by Contractor or its Subcontractor to carry out these requirements is a material breach of this Contract, which may result in the termination of the Master Agreement between the State and HTA, the termination of this Contract by HTA, or such other remedy the State or HTA deems appropriate, which may include, but is not limited to:
 - i. Withholding monthly progress payments;
 - ii. Assessing sanctions;
 - iii. Liquidated damages; and/or
 - iv. Disqualifying Contractor from future bidding as non-responsive.

HTA will notify the CALTRANS DBELO in the event HTA finds Contractor or Subcontractor is in violation of 49 CFR Part 26 within five (5) business days the finding is made.

- b. DBE Participation Goal.** This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. There is no contract goal for participation of Disadvantaged Business Enterprises (DBE) for this Contract. Proposers are required to document sufficient DBE participation to meet the Contract goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53 (3)(i)(A). Award of this Contract is conditioned on submission of the following:
 - i. If the offer meets the DBE contract goal the offeror must include with the offer a completed ADM-0227F form.
 - ii. If the offer cannot meet the DBE contract goal the offeror must include with the offer a completed ADM-0312F form that documents the offeror’s good faith efforts (GFE) and

ADM-0227F form. The AWARDING AGENCY must document concurrence with the offeror's GFE and provide a copy of the GFE to Caltrans DRMT Compliance Liaison for additional concurrence prior to contract award.

Contractor shall not terminate the DBE Subcontractors listed on ADM-0227F without the HTA's prior written consent and concurrence from the CALTRANS DBELO. HTA may provide such written consent only if Contractor has good cause to terminate the DBE firm. Before transmitting a request to terminate, Contractor shall give notice in writing to the DBE Subcontractor of its intent to terminate and the reason for the request. Contractor shall give the DBE five (5) days to respond to the notice and advise of the reasons why it objects to the proposed termination. When a DBE Subcontractor is terminated or fails to complete its work on the contract for any reason, Contractor shall make good faith efforts (GFE) to find another DBE Subcontractor to substitute for the original DBE and immediately notify HTA in writing of its efforts to replace the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Contract as the DBE that was terminated, to the extent needed to meet the Contract goal established for this procurement.

23. Continued Compliance. HTA will monitor Contractor's DBE compliance during the life of this Contract and submit to the State a completed ADM-3069 form in each their request for reimbursement (RFR) packet.

24. Prompt Payment and Return of Retainage

- a. HTA must comply with 49 CFR Part 26.29 and ensure the Contractor pay its subcontractors performing work satisfactorily completed related to this contract no later than thirty (30) days after the Contractor's receipt of payment for that work from HTA.
- b. Unless the approved project is for Construction, Contractor shall not hold retainage (withhold retention) from any subcontractor. The State shall not hold retainage (i.e. withhold retention) from any contractor.
- c. If a dispute arises regarding Construction projects only, Contractor may exercise its rights under California Public Contract Code (PCC) Sections 10262 and 10262.5 or California Business and Professions Code (BPC) Section 7108.5, as applicable.
- d. Contractor is required to pay its subcontractors for satisfactory performance of work related to this Contract no later than 30 days after the Contractor's receipt of payment for that work from HTA. In addition, Contractor is required to return any retainage (retention) payment to any subcontractor within 30 days after the subcontractor's work related to this Agreement is satisfactorily completed.

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

26. Contract Work Hours and Safety Standards Act (Applicable to: Construction contracts and, in very limited circumstances, non-construction projects that employ laborers or mechanics on a public work.)

- a. Contractor agrees to comply with section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. Section 33 and also ensure compliance of its subcontractors; if applicable, Contractor shall comply with DOL regulations "Safety and Health Regulation for Construction" 29 CFR Part 1926.
- b. No Contractor, contractor, or subcontractor contracting for any part of the 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 the rate

of 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.

27. Third Party Construction or Facility Improvement Contracts

- a. Davis Bacon Act (>\$2,000.00).** In accordance with requirements of 49 U.S.C. Section 5333(a) and the implementing regulations of 29 CFR Part 5, the Contractor shall comply with the employee protection requirements of the Davis-Bacon Act for construction activities exceeding \$2,000.00 performed in connection with the Project. The Davis-Bacon Act applies to contracts in excess of \$2,000.00 for construction, alteration, or repair of public buildings or public works and requires the inclusion of a clause that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing wage rates as determined by the Secretary of Labor.
- b. Bonding.** For contracts or subcontracts exceeding \$100,000.00, the following bonding requirements must be included: Bid guarantee from each Contractor equivalent to five (5%) percent of the bid price; performance bond on the part of the Contractor for 100 (100%) percent of the contract price; and payment bond in the amount of either (1) 50% of the contract price if the contract price is not more than \$1 million dollars or, (2) 40% of the contract price if the contract price is more than \$1 million.
- c. Copeland Anti-Kickback Act.** For contracts or subcontracts exceeding \$100,000.00 and in accordance with 18 U.S.C. Section 874, Copeland “Anti-Kickback” Act, 29 CFR Part 3, (“Contractors and subcontractors on Public Building or Public Work Financed in part by Loans or Grants from the United States),” the Contractor and all subcontractors are prohibited from inducing, by any means, any person employed in the construction completion, or repair of public work, to give up any part of his or her compensation to which he or she is otherwise entitled.

- 28. Seismic Safety.** Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. Contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the Work.