



HUALAPAI TRIBE

Hualapai Indian Reservation

Public Services Department

P. O. Box 179, 941 Hualapai Way

Peach Springs, Arizona 86434

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TRANSIT FIXED/DEVIATED ROUTE SERVICE PROVIDER REQUEST FOR COMPETITIVE PROPOSAL (RFP)

Reissue Date: June 1, 2016

**Notification of Intent to Bid Due Date and Time:
June 22, 2016 @ 4:00 pm PST/AZ time**

**Requests for Information Due Date and Time: July 6, 2016
@ 4:00 pm PST/AZ time**

**Proposal Due Date, Time, and Location:
July 29, 2016 @ 4:00 pm PST/AZ time
Public Services Office, Peach Springs, Arizona**

Contact

Julie Alpert, Transportation Planner

P.O. Box 179, 941 Hualapai Way

Peach Springs, Arizona 86434

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SECTION 1

1.0 SCOPE OF WORK

INTRODUCTION & SUMMARY OF INTENT

The Hualapai Tribe is seeking competitive proposals from qualified firms for the operation of a fixed / deviated route service contract for a newly developed public transit program. The transit program was approved by the Hualapai Tribal Council in 2015 and it is anticipated that bus service will begin in October or November of 2016. The Hualapai Tribe desires to enter into a multi-year agreement that will provide the best value to their Tribal members, employees, and the community at large, and that will form the basis of a partnership between the service provider and the Tribe for the achievement of the Tribe's long-term public transit program objectives.

The Hualapai Reservation was established in 1883 and is located in northwestern Arizona. The Reservation comprises nearly 1 million acres of land along 108 miles of the Colorado River. The Tribe also has other lands outside of the primary Reservation boundary. The Reservation falls within three (3) Arizona counties: Mohave, Yavapai, and Coconino.

The principal community on the Reservation is Peach Springs, which is the hub for Tribal government and many other services within the community. The Tribe also conducts tourism businesses through the Grand Canyon Resort Corporation (GCRC). GCRC operates Grand Canyon West, home of the Skywalk attraction and Grand Canyon West Airport and other co-located attractions in the northwest portion of the Reservation. GCRC also operates the River Runners, Hualapai Lodge and Diamond Creek Restaurant, and the Walapai Market and gas station located in Peach Springs. Their corporate headquarters are located approximately 7 miles west of Peach Springs at Music Mountain High School.

The community of Valentine, located on SR66, is approximately 18 miles west of Peach Springs on lands held in Trust for the Hualapai Tribe. Valentine is home to the Bureau of Indian Affairs's Truxton Canon Field Office as well as occupied Tribal residences and historic buildings.

Peach Springs is located approximately 50 miles northeast of Kingman, Arizona on historic State Route 66 (SR66). In addition to various Tribal and Federal government offices located within Peach Springs, other employers include the Peach Springs Unified School District, the Boys and Girls Club, Indian Health Services, and Bureau of Indian Affairs. Tribal members that live in and around Peach Springs are located in various housing sub-divisions, namely Music Mountain, Buck & Doe, Milkweed, and Box Canyon.

A Transit Feasibility Study was conducted in 2015, and through the course of several public meetings and events held in Peach Springs, it was determined that transit service is a high priority for the community at large. The demand is particularly high from employees that live in Kingman and commute to Peach Springs. The demand is also high from Tribal members that have a need to get into and around Peach Springs, and into Kingman for shopping and appointments.

Non-public transit services within the community of Peach Springs are funded by the Tribal Government as well as through various grants. These services include:

- Non-emergency medical transit service through the Hualapai Health, Education and Wellness Department. This service is a 5310 program service that is available to Tribal members within Peach Springs. The service is based on demand, however there are fixed schedules for patients with standing appointments.
- GCRC offers daily contracted van and bus services from Peach Springs and Kingman for employee transport to and from Grand Canyon West.

- The Hualapai Tribe Recreation Department provides transportation for a variety of youth activities and events on a year round basis.
- The Hualapai Tribe’s Elderly Services Program provides a limited transportation service to the elderly on a monthly basis for shopping in Kingman. This service is on a demand basis. The program also offers local transport for the elderly within Peach Springs for appointments, community events, and other activities.
- The Peach Springs Boys and Girls Club transports children within their program to and from home on a year round basis.

Peach Springs Unified School District no longer offers employee transit between Kingman and Peach Springs.

Regional transit services include, but are not limited to:

- *Kingman Area Regional Transit (KART)* serves the City of Kingman as well as a small portion of the outlying area beyond the City’s boundary into Mohave County. The Hualapai transit program would connect to KART in Kingman at the Super Walmart transfer center.
- *Bullhead Area Transit System (BATS)* serves Bullhead City and the surrounding area. Currently there are no transit connections between Kingman and Bullhead City.
- *Dolan Springs Transit* provides 5310 program medical transport to residents of the Dolan Springs community.

****Respondents to this RFP are encouraged to propose alternative ways to provide integrated services to the Hualapai Tribe based on the existing services or lack of services, as described above. However, innovative and creative proposals for the proposed service delivery must still meet the key performance indicators and required service levels. All options or combinations of options will be considered, which meet the Tribe’s long-term transit program goals.****

1.1 OBJECTIVES

This document identifies the nature and scope of the fixed / deviated route services to be provided by the Contractor based on the completed November 2015 Transit Feasibility Study. Service is required to be provided six (6) days per week.

Service is anticipated to commence in October or November of 2016. The transit program will be funded through 5311(c) formula grant funding from the Federal Transit Administration (FTA), 5311 grant funding from the Arizona Department of Transportation (ADOT), Tribal Transportation Program monies, and in-kind and match from the Hualapai Tribal Government.

The term of the proposed agreement will be three (3) years with four (4) one-year renewal options. The Hualapai Tribe will evaluate their transit program on a bi-annual basis to determine the program needs, corrections, or changes. A degree of flexibility will be required on the part of the Contractor as the transit program develops from a start-up operation to a fully operational, fixed/deviated-route transit service. Proposed bus stop locations may change in location, be deleted, or new ones added, depending upon need and ridership.

In all aspects of the operation of fixed/deviated-route bus service, it is the intent of the Hualapai Tribe to maintain full compliance with the requirements of the Americans with Disabilities Act (ADA). In this regard, the Contractor shall meet all ADA requirements for public transportation and shall carry out its responsibilities under the contract and work cooperatively with the Hualapai Tribe to ensure full ADA compliance.

In addition to the Americans with Disabilities Act, the Contractor shall also comply with the Buy America Act, and comply with all other applicable federal, state and local regulations and requirements.

1.2 REGULATORY COMPLIANCE

Tribal governments must comply with federal tribal transportation regulations as stipulated under 25 CFR Part 170 with regard to the federal Tribal Transportation Program (TTP) funding of transit facility improvement projects on tribal or BIA routes.

1.3 OVERVIEW OF FIXED / DEVIATED ROUTE SERVICE

The following routes and schedules are proposed for Year 1 of the public transit service program. Transit service will not be operated on Thanksgiving Day, Christmas Day, or New Year's Day.



COMMUTER ROUTES

Route 1: Monday through Friday – 6:10 am to 8:00 am – Commuter Service from Kingman to Peach Springs starting at the Kingman Super Walmart transfer center, with stops along SR66 in Valle Vista, Valentine, Truxton, Music Mountain High School (GCRC), Buck & Doe Road and Milkweed housing subdivisions, and Peach Springs locations (Exhibit A-1, Figure 1). Arrival in Peach Springs is scheduled for 8:00 am for the last stop of the morning commuter route. A total of thirteen (13) stops are proposed within Peach Springs. A stop has been proposed for the Kingman Airport Industrial Complex located off SR66 between the Walmart transfer center and the Valle Vista stop.

Route 2: Monday through Friday – 5:00 pm to 6:46 pm – Commuter Service from Peach Springs to Kingman (Exhibit A-1, Figure 1).



INTRA-CITY CIRCULATOR ROUTE

Monday through Friday – 11:00 am to 2:05 pm – 3 Runs - Mid-Day Peach Springs Circulator Service within Peach Springs and the Buck & Doe residential area (Exhibit A-2, Figure 2). Three (3) circulator Runs are proposed. Each Run will take approximately one (1) hour to complete with a total of twenty-three (23) stops. This service is proposed as a **Deviated Fixed Route Service** that will provide scheduled stops but will allow the driver to deviate from the fixed route, up to three quarters of a mile, in response to a dispatched request for riders who are unable to make their way to an established bus stop.



INTER-CITY SHOPPER ROUTES*

Route 1: Wednesday and Saturday – 8:30 am to 10:20 am – Inter-City Shopping Service from Peach Springs to Kingman with stops at the Buck & Doe and Milkweed Springs residential area, Truxton, Valentine, Valle Vista, and Walmart transfer center where riders can connect to the City of Kingman's KART service for access to other locations within the City (Exhibit A-3, Figure 3). A total of sixteen (16) stops are proposed within Peach Springs.

Route 2: Wednesday and Saturday – 1:45 pm to 3:50 pm – Inter-City Shopping Service from Kingman to Peach Springs (Exhibit A-3, Figure 3).

Based on the community's response and interest, the Shopper Route will be very popular with the community and the contractor can anticipate that the ridership will consist of family groups that will most likely have many packages, bags, and items with them on the return trip to Peach Springs. The size of the bus needed as well as resultant storage space may be a critical factor. Likewise, it may also be anticipated that the Shopping Route on the return schedule go door-to-door so that elderly, handicapped, and the infirm can be assisted with their packages and bags. This Route may need to be tailored to a reservation system so that a seat or group of seats can be reserved.

1.4 CONTRACTOR SERVICES REQUIRED AND SERVICES PROVIDED BY THE HUALAPAI TRIBE

The Contractor will need to provide specific services, equipment, staff, etc. in support of the Hualapai Tribe's transit program. Likewise, the Tribe will also provide certain services, equipment, staff, etc. in support of the transit program. At the time of the issuance of this RFP the Tribe has not hired a Transit Operations Manager (TOM). The Contractor may initially take on roles and responsibilities that will eventually be transferred to the TOM.

Table 1 outlines the current known needs. The Contractor shall identify in their proposal which need they can or cannot meet and the associated quantities and costs of those which they can. The Contractor shall identify any missing or relevant needs or services and the quantities and costs for those items that have not otherwise been listed in Table 1. Equipment, software, services and all other needs shall be in compliance with FTA rules and regulations.

A Schedule of Activities and Operations for the start-up of the transit services for Year 1 will be submitted with the proposal.

Table 1. Transit Fixed/Deviated Route Contractor Services Required

FUNCTION, STAFF, VEHICLES, EQUIPMENT, AND PROPERTY	CONTRACTOR ROLE AND RESPONSIBILITY	HUALAPAI PUBLIC SERVICES ROLE AND RESPONSIBILITY
Contractor Contract Administration		Transportation Planner / TOM
Administrative Staff and Oversight – Ridership Data Collection and Reporting; Accidents and Incidents Reporting; Revenue Management; Accounting and Budgeting Functions	Lead Staff*	and Transportation Planner / TOM
Operations Staff and Oversight – Field and Dispatch	Lead Staff	
Office Space (Contractor Provided Trailer or Hualapai Public Services office space depending on needs) and Utilities	Contractor	and/or Public Services
Communication Equipment (radios, phones, cell phones, etc.); Computers and relevant transit related Software and Software Licensing; etc.	Contractor	
Bus Fleet (Buses to be ADA Compliant; cameras; radios; fare boxes; passenger counters; variable message signs; internet and/or wi-fi capability for riders; etc.)	Contractor	
Supervisor Vehicle	Contractor	
Training and Certification Program	Lead Staff	and Transportation Planner / TOM
Policies, Procedures, and Operations Handbook	Lead Staff	Transportation Planner / TOM
Rider Guide	Lead Staff	and Transportation Planner / TOM
Rider Passes and Vouchers	Lead Staff	and Transportation Planner / TOM
Call and Scheduling Policies and Procedures	Lead Staff	Transportation Planner / TOM
Marketing – Transit Logo on Buses; External Party Advertising; Website Development and Maintenance; Bus Stop Advertising; Route Maps and Pamphlets; Public Information and Complaints; Public Meetings; etc.	Lead Staff	and Transportation Planner / TOM
Work with Tribal Employment Rights Office (TERO) to Train and Hire Tribal Members for Transit Jobs	Lead Staff	and Transportation Planner / TOM
Procure and Install Bus Stop Shelters and Signage; Improve Parking Areas		Transportation Planner / TOM
Drug and Alcohol Training, Testing, and Reporting	Lead Staff	and Transportation Planner / TOM
Gasoline, Diesel, or Electric Outlets for Gas, Diesel, or Electric Powered Buses		Public Services Fuel Station
Bus and Vehicle Fleet Maintenance to Include Garage	Contractor	
Garage Deadhead Time	Contractor	
Ridership Surveys – Quarterly	Lead Staff	and Transportation Planner / TOM
Transit Technical Advisory Committee (TAC) Meetings - Quarterly	Lead Staff	and Transportation Planner / TOM

*Lead Staff = The Contractor’s Lead Staff position will need to have all of the skills, capabilities, and experiences of a qualified transit operations manager or supervisor.

1.5 FARE COLLECTION

The Contractor shall address each of the below listed items regarding fare collection and management:

1. Collection of Hualapai Tribe-specified fares and the counting of each and every passenger who utilizes fixed / deviated route service.
2. Compliance with all of the policies, practices, procedures, terms and conditions required by use of federal, state and other funds, including, without limitation, conditions pertaining to rates charged to students, elderly and handicapped persons; the prohibition of charter bus operations and school bus operations; employment; and reporting.
3. Compliance with all policies, practices, procedures, terms and conditions as may be directed by the Tribe with regard to matters such as passes, tickets, coupons, tokens, transfers, transfer systems, interconnections between different modes of transportation, and interconnections between different transportation agencies.
4. Compliance with all policies, practices, procedures, terms and conditions as may be directed by the Tribe with regard to the availability and distribution of schedules and other printed materials on vehicles providing transportation services under this agreement.
5. Compliance with all policies, practices, procedures, terms and conditions as may be directed by the Tribe with regard to collection, security for, and disposition of fares, and other service revenue.

1.6 Employees and Training

The Contractor shall address each of the below listed items regarding employees and training:

1. Provision of all professional, supervisory, administrative, skilled and unskilled personnel necessary or appropriate for the Contractor to provide the transportation services and to carry out its other obligations under a service agreement, including personnel that are explicitly dedicated to customer service.
2. The Contractor may recruit and hire workers from whatever sources are available to him and by whatever process he so chooses, provided that he may not employ a non-local Indian or non-Indian until he has given the Hualapai Tribal Employment Rights Office (TERO) 72-hours to locate and refer a qualified local Indian. However, in cases where a worker is needed in a shorter period of time, the employer may so request from the TERO a waiver so long as the employer can demonstrate that need exists. See Exhibit B for additional requirements regarding the Hualapai TERO, guidance, and forms.

Include in your proposal a statement describing how you will endeavor to provide Native American Preference in employment, subcontracting, and training. Include the estimated/proposed number or percentage of Native Americans to be employed and trained.

3. Provision of transportation coordination services during business hours.
4. Providing a training program; including, but not limited to, customer service, supervision, and administration of fixed-route service. Transit employed Tribal members will also be included in the training program. See Exhibit B for requirements regarding TERO employees.

1.7 Facility Operation and Maintenance

The following items regarding facility operation and maintenance may or may not apply depending upon the terms and agreement of an executed contract based on the needs and services identified in Table 1 and elsewhere in this RFP that the Contractor is able to provide:

1. Maintenance of Tribal furnished facility and equipment in first-class condition for their intended purposes throughout the agreement term. Nothing contained in the services contract shall affect the Tribe's absolute ownership of, and title to, the Tribe's equipment; such ownership and title being hereby expressly reserved to and retained by the Tribe.
 - a) Repairing or replacing, at the Contractors sole expense, any facility or equipment item accidentally or willfully damaged, sabotaged, misused or lost. Failure to make said restoration will result in correction by the Tribe with reimbursement by Contractor.
 - b) Cooperating with the Tribe in maintaining an accurate inventory of all Tribal-owned and contractor-owned equipment.
 - c) Return of facilities, equipment and records to the Tribe immediately following the agreement term or upon termination of the contract.
2. Except as otherwise provided in this contract, the lease, rental, or purchase of property or equipment to perform the work herein described must have the prior written approval of the Hualapai Tribe. Real estate needed for business operations on the Hualapai Reservation will require Tribal Council approval through the granting of commercial lease as well as obtaining a business license from the Hualapai Tribe. The control, utilization, and disposition of property or equipment acquired using Federal/State funds shall also be determined by the State in accordance with the property management standards set forth in 49 CFR Part 18 , ADOT Manual - FIN 11.02.

1.8 Safety Program

The Contractor shall address each of the below listed items regarding their safety program:

1. **Implementing a comprehensive safety program and assuming full responsibility for the safety of the passengers.** The safety program shall be fully compliant with all applicable federal, state and local regulations including but not limited to Occupational Safety and Health Administration (OSHA) and Americans with Disabilities Act.
 - a) Provide and document initial safety training for each employee and each Tribal Transit employee.
 - b) Conduct recurring safety training meetings for all employees to include senior management staff, managers and supervisors, front-line, and Tribal Transit employees.
 - c) Provide copies of attendance rosters and agenda items discussed to Transit Staff Safety Officer and to the Tribe's Transportation Planner and/or TOM.
 - d) Briefing papers on safety training topics as provided by Transit Staff Safety Officer.
 - e) Participate in transit safety drills and exercises.

2. *Providing a comprehensive system security program:*

- a) Provide and document initial security training to each employee and each Tribal Transit employee.
- b) Conduct recurring security training meetings separate from safety training meetings for all employees to include senior management staff, managers and supervisors, front-line and Tribal Transit employees.
- c) Provide copies of attendance rosters and agenda items discussed to Transit Security Officer and to the Tribe's Transportation Planner and/or TOM.
- d) Brief describing security topics as provided by Transit Security Officer.
- e) Participate in transit security drills and exercises.

SECTION 2

2.0 PROPOSAL INFORMATION

Section 2 provides general information to potential Offerors on subjects such as where to submit proposals, number of copies, amendments, proprietary information designation, and other similar administrative elements.

2.1 NOTIFICATION OF INTENT TO BID AND REQUESTS FOR INFORMATION

- a. Notification of the Offeror's Intent to Bid on this RFP will be sent via e-mail to Julie Alpert, Transportation Planner, at jalpert@hualapai-nsn.gov by **June 22, 2016, 4:00 pm, PST/Arizona Time**.
- b. Requests for Information regarding this RFP will be sent via e-mail to Julie Alpert, Transportation Planner, at jalpert@hualapai-nsn.gov by **July 6, 2016, 4:00 pm, PST/Arizona Time**. Each Request for Information and our response will be sent via e-mail to all Offerors that have notified us with their Intent to Bid. Responses shall be in the form of an official addendum. The addendum will be posted on the Tribe's web site as part of the official RFP notice.

2.2 SUBMISSION OF COMPETITIVE PROPOSAL

- a. **Offers** can be submitted via the U.S. Postal Service or other delivery methods to:
Julie Alpert, Transportation Planner
Hualapai Public Services Department
P.O. Box 179
Peach Springs, Arizona 86434
- b. **Offers** can be submitted in person to:
Julie Alpert, Transportation Planner
Tribal Administration Building
Hualapai Public Services Department
941 Hualapai Way
Peach Springs, Arizona 86434
- c. **Date/Time:** Proposals shall be submitted to Public Services **on or before 4:00 pm, PST/Arizona Time, Friday, July 29, 2016**.

***** NO LATE OFFERS WILL BE ACCEPTED *****

- d. **Identification of Proposal:**
Competitive proposals shall be submitted in envelope(s) or container(s) with the solicitation title, date of submission, and the Offeror's name clearly marked on the outside of the envelope(s) or container(s).

2.3 NUMBER OF COPIES

Offerors shall submit **one unbound original** set, **four (4) bound copies**, and **one electronic version** (CD or flash drive) of the proposal documents. This will greatly facilitate the evaluation process. The proposal shall remain the property of the Hualapai Tribe. The **unbound original** copy shall be clearly marked "**ORIGINAL**."

2.4 SPECIAL TERMS AND CONDITIONS

The following special terms and conditions shall govern the preparation and submission of proposals and any contract that may ensue. Please note the following definitions of terms as used herein:

- The term “Request for Proposal (RFP)” means a solicitation of a formal competitive proposal following submission of which changes in proposals and/or prices are allowed, and the offer deemed by the Hualapai Tribe to be most advantageous in terms of criteria as designated in the Request for Proposal is accepted.
- The term “Offeror” means the person, firm, or corporation that submits a formal competitive proposal and which may or may not be successful in receiving a contract of award.
- The term “Contractor” or “Contractor” means the Offeror who is awarded the contract to provide the products or services specified.
- The term "federal law" means any statute passed by the Congress of the United States, any final regulations adopted by any administrative agency of the United States government and published in the Code of Federal Regulations or the federal register or any final decision of the federal judiciary.
- The term "Statutory" means requirements of Tribal, Federal, and State laws.

2.5 PUBLIC INFORMATION

Following the award of a contract, responses to this solicitation may be subject to release as public information unless the response or specific parts of the response can be shown to be exempt from public information. Offerors are advised to consult with their legal counsel regarding disclosure issues and take the appropriate precautions to safeguard trade secrets or any other proprietary information. The Hualapai Tribe assumes no obligation or responsibility for asserting legal arguments on behalf of potential Offerors.

2.6 RFP OBJECTIVE

The objective of this RFP is to provide sufficient information to enable qualified Offerors to submit written competitive proposals to the Hualapai Tribe. The RFP is not a contractual offer or commitment to purchase products or services. In developing your response, please feel free to present options and variables to the scope while still meeting the minimum requirements of this solicitation. Innovative proposals/solutions are encouraged and will be considered in the selection and/or award.

All information must be legible. Corrections and/or erasures must be initialed. Each proposal shall be accompanied by a transmittal letter signed in ink by an authorized representative of the Offeror. The contents of the proposal submitted by the successful Offeror may become part of any contract awarded as a result of this solicitation.

2.7 CONFIDENTIAL OR PROPRIETARY INFORMATION

If an Offeror believes that parts of an offer are confidential, then the Offeror must so specify. The Offeror must stamp in bold letters the word CONFIDENTIAL on that part of the offer which the Offeror believes to be confidential. The Offeror must submit in writing specific detailed reasons, including any relevant legal authority, stating why the Offeror believes the material to be confidential. Vague and general claims as to confidentiality will not be accepted. The Hualapai Tribe will be the sole judge as to whether a claim is general and/or vague in nature. All offers and parts of offers, which are not marked as confidential, will be automatically considered public information after the contract is awarded. The successful offer may be considered public information even though parts are marked confidential.

2.8 AMENDMENTS

Amendments to this RFP may be issued at any time prior to the deadline for receipt of proposals. Amendments will be sent via e-mail to all Offerors that have notified us of their Intent to Bid. The Offerors are required to acknowledge receipt of any Amendments (addenda) issued to this RFP by returning a signed copy of each amendment issued. Signed copies must be e-mailed to Julie Alpert, Transportation Planner, at jalpert@hualapai-nsn.gov, on or before the deadline for receipt of offers (see 2.2 above).

2.9 WITHDRAWAL OR MODIFICATION OF OFFERS

Any Offeror may modify or withdraw an offer in writing at any time prior to the deadline for submission of an offer (see 2.2 above). Modifications or notification of withdrawal shall be sent via e-mail to Julie Alpert, Transportation Planner, at jalpert@hualapai-nsn.gov.

2.10 ACCEPTANCE

- a. By submitting an offer in response to this solicitation, the Offeror agrees that any offer it submits may be accepted by the Hualapai Tribe at any time within 120 calendar days from the date of submission deadline (see 2.2 above). The acceptance period of 120 calendar days from the date of submission will automatically be extended for an additional 60 calendar days unless the proposal expressly states in it that the acceptance period is limited to the initial 120 calendar day period.
- b. The Hualapai Tribe reserves the right to reject any or all offers and to waive informalities and minor irregularities in offers received, and/or to accept any portion of the offer if deemed in the best interest of the Hualapai Tribe. Failure of the Offeror to provide in its offer any information requested in the RFP may result in rejection for non-responsiveness.
- c. Bidder's claiming Native American preference who fail to submit the required Native American Preference statements regarding subcontracting, training, and employment of Native Americans shall be considered non-responsive resulting in grounds for a bid rejection..

2.11 PROPOSAL PREPARATION COST

The cost of proposal preparation is not a reimbursable cost. Proposal preparation costs shall be at the Offeror's expense and are the Offeror's total responsibility.

2.12 AWARD

The Hualapai Tribe intends to make an award using the evaluation criteria listed in the RFP to determine the best value considering all factors and criteria in the proposal submitted (see Section 4 for evaluation elements).

2.13 CONTRACT ADMINISTRATION

The Hualapai Tribe, Public Services Department, shall be responsible for the administration of the contract and for compliance with the interpretation of scope, scheduled services and cost compliance.

2.14 SCHEDULE OF EVENTS

The upcoming schedule of events is scheduled as follows:

- Reissuance of Request for Competitive Proposal June 1, 2016.
- Notification of Intent to Bid due June 22, 2016.
- Requests for Information due July 6, 2016.
- Proposal Due Date July 29, 2016 at 4:00 PM, PST/Arizona Time.
- Short List Selection (if applicable) – August 2016
- Short List Interviews (if applicable) – August/September 2016
- Award of Contract (Letter of Intent) – September/October 2016
- Notice-to-Proceed TBD

Commencement of Services Upon Notice to Proceed is Anticipated in October or November of 2016.

2.15 INQUIRIES

General inquiries about this RFP shall be directed to Julie Alpert, Transportation Planner, at jalpert@hualapai-nsn.gov.

2.16 PERFORMANCE PERIOD

The performance period for this contract is three (3) years.

2.17 DEBRIEFING

Offerors not selected or placed on a short list may request a debriefing on the selection process as well as discussion of the strengths and weaknesses of their firm’s proposal upon receipt of notification that their firm was not selected or short listed. Firms that were on the short list but not selected may request a debriefing after they have been notified that another firm was selected.

A debriefing may be scheduled by contacting Julie Alpert, Transportation Planner, at jalpert@hualapai-nsn.gov. We must receive a written request for debriefing no later than ten (10) calendar days after notification that your firm was not selected.

2.18 DULY AUTHORIZED SIGNATURE

The proposal must contain the signature of a duly authorized officer or agent of the Offeror's company empowered with the right to bind the Offeror. The Offeror must also provide evidence of the authority of the officer or agent to bind the Offeror. See Exhibit C, Proposal Certification.

2.19 SUBSTANTIVE PROPOSALS

The contractor shall certify and submit Exhibit C, Proposal Certification. This will include:

- a. that contractor's proposal is genuine and is not made in the interest of, or on behalf of, an undisclosed person, firm, or corporation;
- b. that contractor has not directly or indirectly induced or solicited any other contractors to put in a false or sham bid;
- c. that contractor has not directly or indirectly submitted false certification as to subcontracting with Native American economic enterprises or organizations or Disadvantaged Business Enterprises (DBE).
- d. that contractor has not solicited or induced any other person, firm, or corporation to refrain or abstain from proposing a bid; and
- e. that contractor has not sought by collusion to obtain for themselves any advantage over any other contractors or over the Hualapai Tribe.
- f. is not a member of the U.S. Congress or is a federal employee.

In addition, please see Exhibit L, Lobbying Certification, for review, signature, and submittal with the proposal.

2.20 COMPLIANCE WITH FEDERAL REQUIREMENTS

The Federal Terms and Conditions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in these contract provisions. All contractual provisions required by the DOT are hereby incorporated by reference. Anything to the contrary herein notwithstanding, as authorized by Common Law (49 CFR Part 18) the most restrictive of State or Federally-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 funding Federal Agency requests that would cause the Hualapai Indian Tribe to be in violation of the Federal terms and conditions. All applicable clauses shown in the funding Federal Agency Grant Agreement with the Hualapai Indian Tribe apply to this Agreement.

Federal Highways Administration: The Stewardship and Oversight Agreement for Arizona in effect at the time this solicitation was advertised is located at: <http://www.fhwa.dot.gov/azdiv/stewtoc.cfm> .

Federal Transit Administration: The FTA Master Agreement in effect at the time this solicitation was advertised is located at: <http://www.fta.dot.gov/documents/20-Master.pdf>

Exhibit D, FTA Required Clauses and Certifications contains additional required information and Contractor submittals.

Refer to Exhibit E for FTA FY 2016 Certifications and Assurances, check sheet, and signature page. Please enclose completed documents (initialed and signed) with the submittal package.

2.21 PROCUREMENT RULES AND REGULATIONS

All formal projects advertised by the Hualapai Tribe are solicited in accordance with the Tribe's *Procurement Procedures and Purchasing Manual* (Exhibit F). Preference in award of contracts shall be given to Native American owned companies based on ownership percentage, qualifications, the RFP evaluation scores, and cost. The solicitation is open to non-Indian owned companies and all qualified contractors are encouraged to apply.

1. **Bid Protests.** Any discrepancies or conflicting statements, decisions regarding irregularities, clauses or specifications will be resolved utilizing the Tribe's *Procurement Procedures and Purchasing Manual*. All bid protests shall be in writing, with two (2) original documents submitted to Julie Alpert, Transportation Planner.
2. **Award Protests.** Any protest against the award of a contract must be received within ten (10) calendar days after contract award or the protest will not be considered. All bid protests shall be in writing, with two (2) original documents submitted to Julie Alpert, Transportation Planner.
3. **Native American Protests.** Complaints arising out of any of the methods of providing for Native American Preference shall be handled in accordance with Federal law.

2.22 NATIVE AMERICAN PREFERENCE REQUIREMENTS

Projects developed and operated with Federal funds are subject to Section 7(b) of the Indian Self-determination and Education Assistance Act (25 U.S.C. 450e(b)). Section 7(b) provides that to the greatest extent feasible, preference shall be given to Native American organizations and to Native American owned economic enterprises in the award of all contracts and subcontracts and to Native Americans in employment and training. Native American preference applies not only on-site, on the reservation, or within the Hualapai Tribe's jurisdiction, but also to contracts with firms that operate outside these areas.

Eligibility for Native American Preference will be in accordance with Federal regulations. A Native American owned economic enterprise is defined to be a firm which is more than 51% Native American owned, more than 51% Native American managed and more than 51% Native American controlled (Exhibit F).

2.23 PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES (DBE)

The Contractor is required to adhere to the commitment of participation made to ADOT-certified DBE as indicated in the Contractor's Proposal or subsequently agreed to by the State during

negotiations. The State or other political subdivision of the State, at its' discretion on a case-by-case basis, may waive the above limitations. Exhibit G contains additional information regarding DBE participation and requirements.

2.24 OFFEROR'S QUALIFICATIONS

Each Offeror may additionally be required to show that they have satisfactorily provided products and performed similar work with companies, organizations or municipalities in the past and that no claims of any kind are pending against such work. No proposal will be accepted from an Offeror who is engaged in any work, which would impair their ability to perform or finance this work. All such work shall be revealed in the Proposal. No proposal will be accepted from, nor will a contract be awarded to, any Offeror who is in arrears to the Hualapai Tribe upon any debt or contract, or who is in default, as surety or otherwise, upon any obligation to the Tribe or is deemed to be irresponsible or unreliable by the Hualapai Tribe. Exhibit L, Suspension and Debarment, is required to be submitted with the proposal package.

Offeror shall provide the following responsibility determination submittals:

1. Information pertaining to ownership of the company. Specify if the company is or is not Native American owned. If it is Native American owned, include percentages of ownership, management, or control. Specify if the company is or is not a certified DBE and specify percentages of ownership.
2. History of company and prior name(s) if existing company is less than five (5) years old, including any and all relative licenses.
3. Name and phone numbers of at least three (3) references that you have completed similar projects for, or are currently, at the time of bid, contracted for work. Please include government entities as applicable.
4. A complete list of all services or projects completed and/or on-going in the last five (5) years. Inclusion of experience working with Indian tribes, federal agencies that fund and/or regulate facilities in Indian country, and small rural communities is preferred.
 - a. Name of Owner
 - b. Contact Name and Phone Number
 - c. Awarded Contract Amount and the Final Contract Amount
5. Name and summary of experience of the Lead that will be permanently assigned to this project.
6. List any claims that have been brought against the contractor by subcontractors or clients within the past five (5) years.
7. List any and all litigation issues that have been filed by or against the contractor or former company names in the past five (5) years and the resolution/outcome.

2.25 SUB-CONTRACTORS

Provide a section that includes whether or not assistance in the form of sub-contractor, data, or equipment is required from other organizations, describe the assistance that will be needed for

obtaining such help or information. Include a brief profile of each sub-contracting firm that describes the firm's areas of expertise and recent experience; mailing address, contact name, phone number, and email address; the names, labor classification roles, relevant qualifications, and experience of the project employee team members from the firm.

If the sub-contractor is a Native American owned and/or certified DBE (Disadvantaged Business Enterprise), indicate as such. If it is not feasible to utilize Native American owned, controlled, or managed sub-contractors include a statement as to why not and any supporting evidence available. Letters of commitment and requests to add new sub-consultants should be included in an appendix to the proposal.

Include single-page, signed letters of commitment from each sub-contractor, written on the sub-contractor's letterhead. The letter of commitment must include a statement that the sub-contractor agrees to comply with all terms and conditions of the prime contract. The letter must include the sub-contractor's mailing address, contact name, phone number, and email address.

If the proposal includes sub-contractors that are not currently approved in the prime contractor's procurement contract or subsequent amendments, the prime contractor must include in their bid package:

ONE COPY of a justification letter for each sub-contractor to be utilized:

- a. On the prime contractor's letterhead, ADDRESSED, BUT NOT MAILED to Hualapai Tribe, Public Services Department, P.O. Box 179, Peach Springs, Arizona, 86434.
- b. Include a statement justifying the need for the sub-contractor on the project team.
- c. If the sub-contractor is a Native American owned and/or certified DBE, indicate as such in the letter and include the estimated percentage of time they will be utilized on the contract. If it is Native American owned, include percentages of ownership, management, or control.
- d. Include the sub-contractor's mailing address, contact name, phone number, and e-mail address. Include three (3) references for similar and relevant work that include the contact name, phone number, and e-mail address.

In addition, please see Exhibit M, Prompt Payment to Subcontractors, for reviewed, signature, and submission with the proposal.

2.26 NON-ARIZONA CORPORATIONS

Before or at the time that the contract is awarded to a corporation from outside the State of Arizona, such corporation shall obtain all necessary licenses, permits, and authorizations to do business in the State of Arizona.

SECTION 3

3.1 PROPOSAL FORMAT

The written competitive proposal should include the information in the format outlined below and be limited to no more than fifty (50) pages. It is recommend that you include concise, but complete, information about your firm emphasizing why you believe your firm to be uniquely qualified to provide the required services. "Short listed" firms, if applicable, may be required to make a formal in-person presentation to the selection committee.

A pages shall not exceed 8-1/2" x 11" in size, unless otherwise specified; double-sided with a minimum font of 11 is preferred. Exceptions to the 8-1/2" x 11" paper size include:

- The proposed project schedule shall be submitted on 11" x 17" paper.
- Exhibits that show route maps shall be submitted on 11" x 17" paper to enhance the clarity.

Each 11" x 17" page will be counted in the overall page limitations above.

3.2 COVER LETTER

Cover letter will be no more than one page. The cover letter does not count in the 50 page limit.

3.3 PROPOSAL CERTIFICATION

Use Exhibit C.

3.4 ORGANIZATIONAL BACKGROUND AND OVERVIEW

Provide a brief history and overview of your company, its ownership (Native American and/or DBE) and its organizational structure, with special emphasis on how this project will fit within that structure.

3.5 PROJECT APPROACH

In this section, please address each of the detailed items listed in Section 1, Scope of Work, as described above.

In developing your response, please feel free to present options and variables to the scope while still meeting the minimum requirements of this solicitation. Innovative proposals/solutions are encouraged and will be considered in the selection and/or award.

3.6 STATEMENT OF QUALIFICATIONS

Submit a general description on a company-wide basis of your firm's background, and qualifications to provide the services and requirements indicated in the Scope of Work. One copy of firm's financial statements for the past two (2) years is required, including but not limited to, balance statement, income statement, and statement of cash flows. Include an Organization Chart that depicts all positions that would support the services required pursuant to this RFP.

3.7 RESUMES

The quality of personnel is extremely important in the Tribe's decision-making process for awarding this contract. In this section, please submit the resumes of all key personnel in critical positions. Include a Transit Services Team Organization Chart that illustrates the relationship and structure of the proposed transit services team. Include copies of certifications, required and relevant trainings attended, etc.

It is important to the Tribe that the contractor be familiar with overall transit operations (data collection and reporting); transit employee requirements (training, drug and alcohol testing, passenger safety, etc.); customer care, and vehicles, including but not limited to, fixed route 14 passenger buses that meet ADA requirements. More detail can be found in Section 1 above.

3.8 COST PROPOSAL

The Contractor must use the Cost Breakdown (Exhibit H) for the presentation of its cost proposal. Applicants are to submit cost amounts for each cost item identified in the Cost Proposal. The cost set forth in the schedule is for establishing a contract budget that will be the Contractors' operating budget for each year of the base period of this agreement. The following instructions and definitions apply to the completion of the Cost Proposal:

- **Personnel** – Personnel costs must be broken down into wages, salaries and fringe Benefits, for each job classification. Any bonuses awarded by the Contractor to personnel due to savings realized under this agreement relative to the cost to the Tribe will not be reimbursed and should not be included in the proposed cost to the Tribe. The Contractor shall adhere to the Hualapai TERO requirements in hiring employees for the contracted work (Exhibit B).
- **Overhead Costs** – General, administrative, and overhead costs included in the Targeted cost will include indirect expenses incurred for items such as, office supplies, uniforms, bonding costs, insurance, copying services, non-capitalized equipment shop tools and insurance. Costs for maintenance and/or rental equipment used in delivering goods and services under the terms of this RFP are also overhead costs. The Tribe will not reimburse any indirect costs in connection with the following: bad debts, donations, entertainment, fines and penalties, lobbying, defense of criminal charges, alcoholic beverages, and/or annual events of any nature.

The Contractor is hereby made aware that Exhibit N includes the Proposed Minimum Service Performance Standards for review and consideration.

3.9 REFERENCES

Provide the names and locations of at least three (3) clients at which your company has conducted similar services and requirements. Specifically describe your company's experience in successfully completing similar projects. Include a list of current clients and current projects the firm is presently working on. Provide names and contact information for each reference.

3.10 SUBMITTALS

Submit five (5) copies, one (1) unbound original and one (1) electronic version (CD) of all information requested herein, including all Attachments and Exhibits. Proposals submitted which do not meet the requirements of this Request may be considered non-responsive and may not receive further consideration. Follow-up calls for missing or incomplete information will not be made. Additionally, all proposals submitted become the property of the Hualapai Tribe and will not be returned to the Offeror.

3.11 EXCEPTIONS

Please note that all Offerors must complete and return with their proposal, Exhibit I, Exceptions Form.

3.12 INSURANCE REQUIREMENTS

Please note that all Offerors must complete and return with their proposal, Exhibit J, Minimum Insurance Requirements.

3.13 BOND REQUIREMENTS

The Hualapai Tribe requires that two (2) bonds be obtained upon selection for award, to assure performance as follows (see Exhibit F, Hualapai Tribe Procurement Procedures and Purchasing Manual):

1. A **Performance Bond** is required and shall be submitted for 100% of the total contract price upon selection for award.
2. A **Payment Bond** is required and shall be submitted for 100% of the total contract price upon selection for award.

SECTION 4

4.1 SELECTION COMMITTEE

A selection committee will screen all proposals. Proposals will be ranked according to evaluation criteria, as outlined in the Request for Proposal. Through this process, the Tribe will determine which proposals are acceptable or unacceptable. The Tribe will notify, in writing, the participating firms whose proposals are deemed unacceptable. Those firms offering proposals deemed to be acceptable will be evaluated and scored by the selection committee. The selection committee may determine it necessary to require oral presentations or interviews with the "short listed" Offerors considered to be in the competitive range.

If oral presentations or interviews are conducted, they will also be scored. The selection committee may request revisions to the proposal from each of the Offerors at the conclusion of the interviews. However, if it is necessary to seek revisions to the proposals at the conclusion of the interviews, then all interviewed Offerors will be requested to submit revisions; and the revisions will be scored accordingly.

4.2 EVALUATION CRITERIA

RFP Scoring and Evaluation (100 points)

1. *Experience and Qualifications of the Contractor/Subcontractor (20 points)*

- Statement of Qualifications.
- Contractor Organizational Chart; illustrate the Contractor's relationship with Subcontractors as applicable.
- Transit Services Team Organization Chart illustrating the relationship and structure of the proposed transit services team. Describe the role and responsibilities and the level of involvement by key team members.

2. *Qualifications of Proposed Transit Services Team (20 Points)*

- Anticipated management plan and team organization, including degree of principle participation, production coordination, division of work, quality assurance, cost control, and prior experience of the project team as a unit to meet the overall requirements of this contract.
- Provide a resume of each key team member that describes experience, training, and certifications. Include relevant qualifications and experience related to activities associated with transit services planning, operations, management, data collection, training, safety, policies and procedures, compliance with FTA rules and regulations, and any other requirements that demonstrate a full range of transit knowledge.

3. *References (5 Points)*

4. Scope of Work and Project Approach (20 points)

- Scope of services, approach, and substantive issues essential to the proper execution of the services.
- Schedule of Activities and Operations for transit services start-up.

5. Cost Proposal (20 Points)

6. Clarity, Responsiveness, Proposal Completeness to Include All Statements, Certifications, and Exhibits (10 Points)

7. Native American Preference (5 Points)

Note: The Tribe reserves the right to reject any or all proposals as it also reserves the right to decline to enter into any Agreement.

4.3 NEGOTIATIONS

All responsive proposals received for this project will be reviewed and ranked on a basis that would best serve the interests of the Hualapai Tribe. This will be based on the evaluation criteria defined in Section 4. Firms that meet all of the RFP requirements and score competitively with each other shall be given the opportunity to negotiate and revise their proposal.

4.4 AWARD OF CONTRACT

The Hualapai Tribe reserves the right to make multiple awards or to award a contract by individual line items or alternatives, by group of line items or alternatives, or to make an aggregate award, whichever is most advantageous or appropriate for the transit program services.

The Tribe reserves the right to award this contract not necessarily to the Offeror(s) with the most advantageous price, but to the Contractor that demonstrates the best ability to fulfill the requirements of this RFP. The Tribe will select the most qualified Contractor that has proven to understand the needs and scope of the services. The Tribe reserves the right to reject all bids.

The firm that has successfully negotiated and revised their proposal, meeting all requirements of this RFP, shall be awarded the contract. Prior to award, additional discussions may ensue to properly execute the contract between the Hualapai Tribe and the successful bidder. Contracted services shall not begin until both parties have signed the contract and a Notice to Proceed has been issued by the contracting officer.

The Contractor will begin planning the transit services in conjunction with the Transportation Planner/TOM to ensure fulfillment of all its obligations. The Contractor is expected to attend regular meetings as required by the Tribe to assist in the preparation for startup as well as throughout the contract period of performance.

4.5 POST-AWARD REPORTING REQUIREMENTS

Progress Report and Pay Application: In addition to any report or deliverable described in the Scope or Work or Proposal Content Areas, a Progress Report and Pay Application consisting of: 1) the invoice, 2) the table of billable hours, and 3) the progress narrative will be submitted to the Transportation Planner / TOM for review and processing. The Progress Report and Pay Application shall be presented no more than monthly and no less than quarterly.

All direct costs must be supported by receipts and other suitable and appropriate documentation. Travel expenses will be reimbursed in accordance with the State Travel Policy. The State travel policy can be accessed via the internet at the State of Arizona, General Accounting Office's website at (<http://www.gao.az.gov/travel>).

The Progress Payment Report shall be delivered by electronic mail to:

Julie Alpert
Transportation Planner
Public Services Department
jalpert@hualapai-nsn.gov

SECTION 5

5.0 CONTRACT TERMS AND CONDITIONS

The Offeror understands that the Tribe is a sovereign nation and retains all aspects of sovereignty not abrogated under federal or by express waiver of the Tribe. A contract for services will be negotiated with the successful Offeror, however, at a minimum the terms and conditions listed in this RFP will apply:

5.1 CONTRACTOR'S CONDUCT

5.1.1 The contractor shall not display signs, or other advertising matter of any kind within the boundaries of the Hualapai Reservation without the prior written permission of the Tribe. Advertising outside of the Reservation shall be at the approval of the government authority in which the location(s) should occur.

5.1.2 The contractor shall ensure that the contractor's personnel are courteous to the public, patrons, and all other persons.

5.1.3 All employees or other personnel of the contractor working for the Hualapai Tribe shall be of lawful working age. The contractor shall comply with all federal and state labor and employment laws to include Tribal TERO regulations and requirements; and all personnel of the contractor shall be competent to do the work assigned to them by the contractor.

5.2 INTEGRATION

Any resultant contract will be a completely integrated contract and contain the entire agreement between the parties. Prior written or oral agreements, if any, shall be deemed of no effect and shall not be binding upon either party, unless incorporated by reference into the resultant contract. That contract may not be amended except in writing signed by all parties to the contract.

5.3 EMPLOYMENT OF UNAUTHORIZED WORKERS

Under federal law, employees shall not be hired by the Contractor unless they have met all of the requirements of the Employment Eligibility Verification Rules as well as the requirements of Form I-9. The State of Arizona's "Legal Arizona Workers Act," Arizona Revised Statutes sections 23-211 through 23-214 prohibits employers from knowingly employing unauthorized workers and requires that all employers in the state use E-Verify.

5.4 EMPLOYEES

Compliance with Federal, State, and Local Laws

Contractor agrees that, with respect to persons employed by it to provide transportation services and other services, it will comply with all applicable federal, state, and Tribal labor laws and requirements including, but not limited to, any and all laws relating to the minimum wages to be paid to its employees, limitations upon the employment of minors, minimum fair wage standards for minors, the payment of wages due employees, and all applicable regulations established to protect the health and safety of employees, passengers, and the public at large. Contractor also agrees to provide the employee protection required under Section 13(c) of the Federal Transit Act, as amended, 49 U.S.C. Section 5333(b), and any state and/or local laws for persons employed by it to provide transportation services and other services.

Employment of Personnel

General: All persons utilized by the Contractor shall be employees of the Contractor and shall not be employees of the Tribe, whether statutory, common law, shared, or other status, whatsoever. Contractor shall be responsible for all recruitment, screening, testing, selection, training, scheduling, supervision, discipline, termination, and all other functions related to personnel required by the Contractor to perform Contractor's obligations under this Agreement.

Employees: Contractor shall comply with all federal requirements relating to drug and alcohol testing including, but not limited to, those imposed under 49 C.F.R. Parts 40, 653, and 654. Contractor shall participate in driver training programs, if any, and shall comply with driver and safety standards required by law.

Contractor Responsible for Contractor Employee Benefits

The Contractor shall be responsible for payment of all wages, salaries, taxes, benefits, etc. whatsoever of Contractor's employees (employee benefits). This includes but is not limited to sick leave and vacation benefits. Contractor should ensure that Contractor's proposal includes Contractor's employment benefit costs. The Contractor's employees are not Tribal employees, and the Tribe will not be responsible for payment of any employee benefits whatsoever, including but not limited to any employee sick leave or vacation benefits which may be saved, banked or otherwise accrued by employees of the Contractor under collective bargaining agreements or other employment agreements between the Contractor and Contractor's employees.

5.5 PRIVACY ACT

The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5U.S.C. § 552a. Among other things, the contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by agencies of the US Department of Transportation.

5.6 RESTRICTION UPON MATERIALS - 49 CFR 18.33 23 CFR 420.121(p)

No requirement shall be imposed and no procedure shall be enforced in connection with a project which may operate to require the use of or provide a price differential in favor of articles or materials produced within the State, or otherwise prohibit, restrict or discriminate against the use of articles or materials shipped from or prepared, made or produced in any State, territory or possession of the United States.

5.7 ASSIGNMENT CLAUSE

All rights and obligations under this Contract are personal to Contractor, and Contractor may not assign this Contract, or any rights or obligations hereunder, to any person. Any such attempted assignment shall be void.

5.8 DELIVERABLES / DISCLAIMER

The Consultant shall include the following disclaimer in each deliverable. This report was funded in part through grants from the Federal Transit Administration and the U.S. Department of Transportation. The contents of this report reflect the views of the authors, who are responsible for the facts and the accuracy of the data, and for the use or adaptation of previously published material, presented herein. The contents do not necessarily reflect the official views or policies of the Arizona Department of Transportation or the Federal Transit Administration, U.S. Department of Transportation. This report does not constitute a standard, specification, or regulation. Trade or manufacturers' names that may appear herein are cited only because they are considered essential to the objectives of the report. The U.S. government and the State of Arizona do not endorse products or manufacturers.

EXHIBIT A

FIXED / DEVIATED ROUTE SERVICE MAPS AND SCHEDULES

Figure 1. HUALAPAI TRANSIT — KINGMAN TO PEACH SPRINGS COMMUTER ROUTE — MONDAY—FRIDAY

Stop #1	Depart from Wal-Mart Transfer Center	6:10 AM	Stop #18	Depart from Adult Detention Center	5:00 PM
1A	Kingman Airport Complex (Proposed Optional Stop)	6:25 AM	19	Hualapai Lodge / Nelson Road	5:04 PM
2	Mike's Outpost OR Valle Vista	6:37 AM	20	Peach Springs Elementary School	5:12 PM
3	Valentine	6:51 AM	21	Central Services (Multi-Purpose/B&G Club/HEW)	5:15 PM
4	Truxton Motel and Café	7:01 AM	22	Tribal Administration, Senior Center, IHS	5:18 PM
5	Music Mountain High School - GCRC	7:05 AM	23	Housing Department—High View Dr.	5:21 PM
6, 7, 8	Buck and Doe Road stops (3) – back to SR66	7:18 AM	24	Transfer Station – Public Services	5:23 PM
9	Hualapai Lodge / Nelson Road	7:26 AM	25	Juvenile Detention Center	5:26 PM
10	Adult Detention Center	7:30 AM	26	Walapai Market and Fuel Stop	5:30 PM
11	Peach Springs Elementary School	7:35 AM	27,28,29	Buck and Doe Road stops (3) – back to SR66	5:38 PM
12	Central Services (Multi-Purpose/B&G Club/HEW)	7:38 AM	30	Music Mountain High School - GCRC	5:50 PM
13	Tribal Administration, Senior Center, IHS	7:41 AM	31	Truxton Motel and Café	5:54 PM
14	Juvenile Detention Center	7:45 AM	32	Valentine	6:05 PM
15	Transfer Station – Public Services	7:48 AM	33	Mike's Outpost OR Valle Vista	6:20 PM
16	Housing Department—High View Dr.	7:54 AM	34A	Kingman Airport Complex (Proposed Optional Stop)	6:32 PM
17	Walapai Market and Fuel Stop	8:00 AM	34	Wal-Mart Transfer Center	6:46 PM

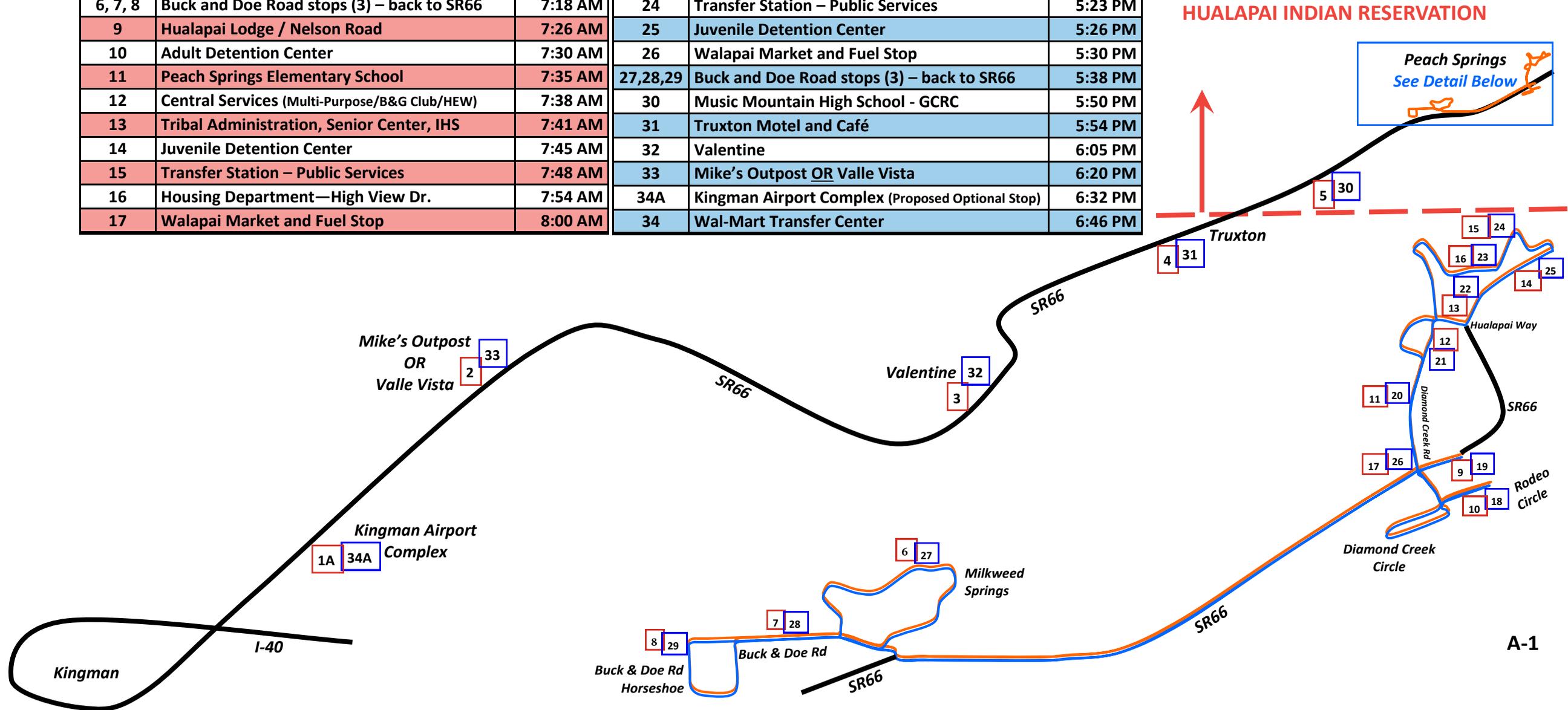


Figure 2. HUALAPAI TRANSIT — PEACH SPRINGS DAILY CIRCULATOR ROUTE — MONDAY—FRIDAY

		Run 1	Run 2	Run 3
A	Health, Education, Wellness Department			
B	Tribal Council / Administration Office	11:00 AM	12:00 PM	1:00 PM
C	Juvenile Detention Center	11:03 AM	12:03 PM	1:03 PM
D	River Runners Where House Complex	11:05 AM	12:05 PM	1:05 PM
E	Transfer Station – Public Services	11:07 AM	12:07 PM	1:07 PM
F	High View Drive – Housing Department	11:09 AM	12:09 PM	1:09 PM
G	Canyon View at Diamond Creek Road	11:11 AM	12:11 PM	1:11 PM
H	Diamond Creek Road at High View Drive	11:13 AM	12:13 PM	1:13 PM
I	Senior Center	11:15 AM	12:15 PM	1:15 PM
J	Multi-Purpose Center	11:17 AM	12:17 PM	1:17 PM
K	Head Start / Day Care Center	11:19 AM	12:19 PM	1:19 PM
L	Peach Springs Elementary School	11:23 AM	12:23 PM	1:23 PM
M	Walapai Market	11:26 AM	12:26 PM	1:26 PM
N1	Milkweed Springs – Fire House	11:35 AM	12:35 PM	1:35 PM
N2	Milkweed Springs – North Side	11:37 AM	12:37 PM	1:37 PM
O	Buck and Doe Road at Box Canyon	11:39 AM	12:39 PM	1:39 PM
P1	Music Mountain Road Horseshoe 1	11:41 AM	12:41 PM	1:41 PM
P2	Music Mountain Road Horseshoe 2	11:43 AM	12:43 PM	1:43 PM
P3	Music Mountain Road Horseshoe 3	11:45 AM	12:45 PM	1:45 PM
Q	Diamond Creek Circle	11:55 AM	12:55 PM	1:55 PM
R	Adult Detention Center	11:57 AM	12:57 PM	1:57 PM
S	Tribal Court / Public Defender	11:59 AM	12:59 PM	1:59 PM
T	Hualapai Lodge at Nelson Road	12:02 PM	1:02 PM	2:02 PM
A	Health, Education, Wellness Department	12:05 PM	1:05 PM	2:05 PM

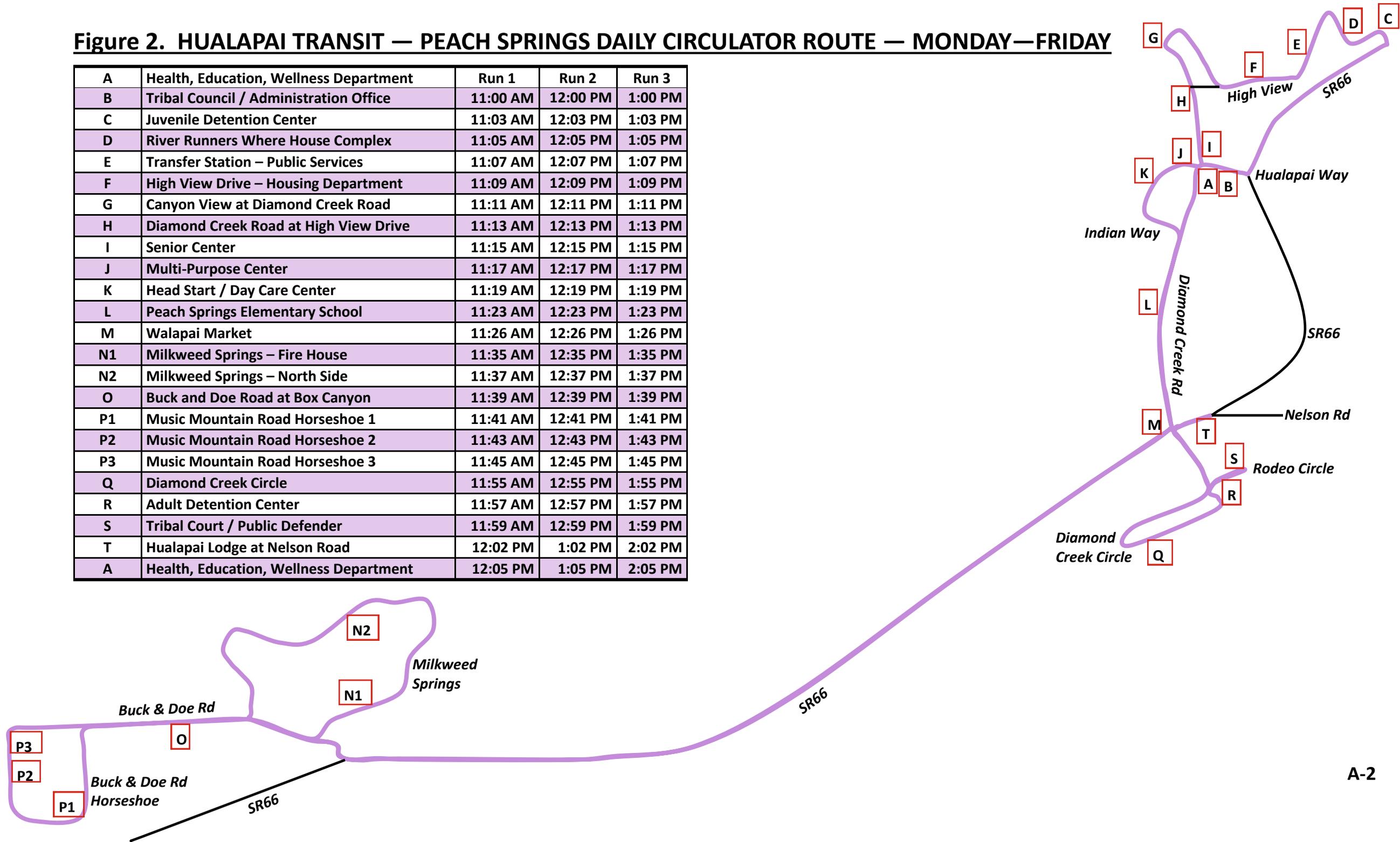


Figure 3. HUALAPAI TRANSIT— PEACH SPRINGS TO KINGMAN SHOPPING ROUTE — WEDNESDAY AND SATURDAY

A	Hualapai Lodge / Nelson Road	8:30 AM
B	Diamond Creek Circle	8:33 AM
C	Multi-Purpose Center	8:36 AM
D	Diamond Creek Road at High View Drive	8:38 AM
E	Canyon View at Diamond Creek Road	8:40 AM
F	High View Drive — Housing Department	8:42 AM
G	Tall Pine Street	8:44 AM
H	Oak and Pine	8:46 AM
I	Senior Center and Tribal Council / Administration	8:48 AM
J	Walapai Market	8:56 AM
K1	Milkweed Springs – Fire House	9:05 AM
K2	Milkweed Springs – North Side	9:07 AM
L	Buck and Doe Road at Box Canyon	9:09 AM
M1	Music Mountain Road Horseshoe 1	9:11 AM
M2	Music Mountain Road Horseshoe 2	9:13 AM
M3	Music Mountain Road Horseshoe 3	9:15 AM
N	Truxton Motel and Café	9:30 AM
O	Valentine	9:40 AM
P	Mike’s Outpost <u>OR</u> Valle Vista	10:00 AM
Q	Wal-Mart Transfer Center	10:20 AM

Q	Wal-Mart Transfer Center	1:45 PM
P	Mike’s Outpost – Valle Vista	2:05 PM
O	Valentine	2:25 PM
N	Truxton Motel and Café	2:35 PM
M3	Music Mountain Road Horseshoe 3	2:50 PM
M2	Music Mountain Road Horseshoe 2	2:53 PM
M1	Music Mountain Road Horseshoe 1	2:57 PM
L	Buck and Doe Road at Box Canyon	3:00 PM
K2	Milkweed Springs – Fire House	3:03 PM
K1	Milkweed Springs – North Side	3:06 PM
J	Walapai Market	3:15 PM
I	Senior Center and Tribal Council / Administration	3:23 PM
H	Oak and Pine	3:26 PM
G	Tall Pine Street	3:29 PM
F	High View Drive — Housing Department	3:32 PM
E	Canyon View at Diamond Creek Road	3:35 PM
D	Diamond Creek Road at High View Drive	3:38 PM
C	Multi-Purpose Center	3:41 PM
B	Diamond Creek Circle	3:46 PM
A	Hualapai Lodge / Nelson Road	3:50 PM

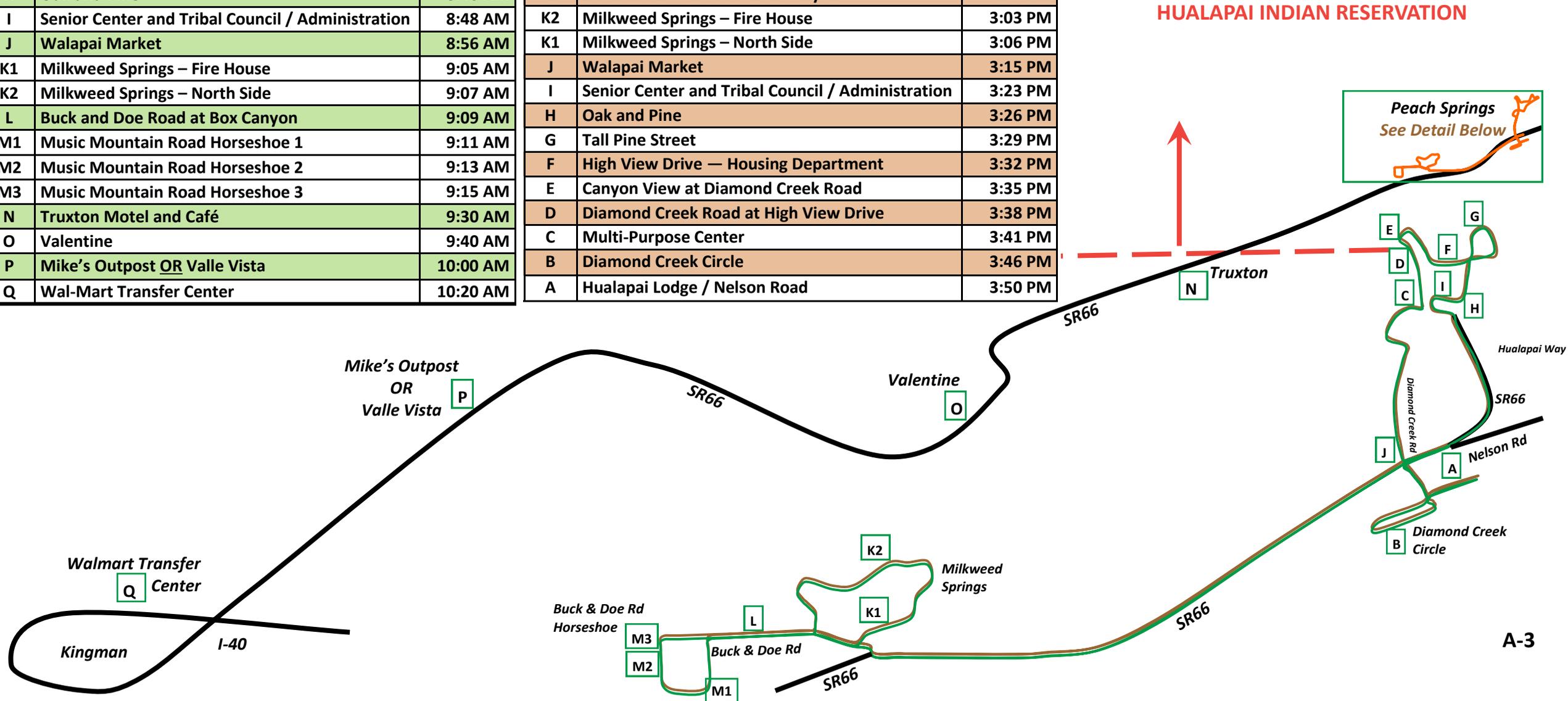


EXHIBIT B

HUALAPAI TRIBAL EMPLOYMENT RIGHTS OFFICE (TERO)

INFORMATION AND FORMS

TRIBAL EMPLOYMENT RIGHTS OFFICE

HUALAPAI TRIBE

P.O. BOX 179

PEACH SPRINGS, AZ 86434

P# 928/769-2216 EXT. 310

F# 928/769-2343

COMPLIANCE PLAN

COMPANY NAME: _____

MAILING ADDRESS: _____

CITY/STATE/ZIP: _____

PHONE NO: _____

CONTACT PERSON: _____

PHONE NO: _____

PROJECT NAME: _____

CONTRACT AMOUNT: \$ _____

TERO TAX @ 1%: \$ _____

FUNDING AGENCY: _____

PROJECT STARTING DATE: _____

ANY CONTRACTOR / SUBCONTRACTOR NOT SUBMITTING AN ACCEPTABLE COMPLIANCE PLAN MAY BE DENIED THE RIGHT TO COMMENCE OR CONTINUE BUSINESS WITHIN THE HUALAPAI RESERVATION.

TRIBAL EMPLOYMENT RIGHTS OFFICE

TERO is the office that monitors the working relationships between the employee and employer, plus provide any support services that are necessary to guarantee that a particular project functions properly. In addition, we require that all employers contact our office for their employment needs. We require that you hire only individuals who have been issued a Hiring Hall Slip or Referral slip from this office.

EMPLOYMENT AND TRAINING PLAN: In accordance with the TERO Regulations employers (contractors, subcontractors) doing business on the Reservation shall submit a Employment and Training plan acceptable to the office. The employer shall identify those persons it wishes to have approved as permanent and key employees and shall provide all data needed by the TERO to verify the status of those employees. The plan shall also describe how the employer will participate in the Tribe's training programs. This may be developed with the TERO for meeting its obligations under these Regulations.

HIRING HALL SLIPS WILL BE ISSUED TO: CORE CREW

CORE CREW DEFINITION: "A member of a contractor's or subcontractor's crew who is a regular, permanent employee and is in a supervisory or other key position such that the employer would face a serious financial loss if that position were filled by a person who had not previously worked for that employer".

CORE CREW ON THIS PROJECT:	
NAME:	JOB CLASSIFICATION:

TRIBAL EMPLOYMENT RIGHTS OFFICE

TRIBAL HIRING HALL A employer (contractor, subcontractor) may recruit and hire workers from whatever sources are available to him and by whatever process he so chooses, provided that he may not employ a non-local Indian or non-Indian until he has given the Hualapai Tribal Employment Rights Office 72 hours to locate and refer a qualified local Indian. However, in cases where a worker is needed in a shorter period of time. the employer may so request from the TERO a waiver so long as the employer can demonstrate that need exists.

ESTIMATED NUMBER OF WORKER NEEDED, INCLUDING JOB TITLES. WE REQUIRE JOB DESCRIPTIONS FOR THE JOB POSITIONS, WITH MINIMUM QUALIFICATIONS IN FILLING THOSE POSITIONS.	
NO.	JOB/CRAFT/TRADE/POSITION

PUBLICATION: The employer (contractor) shall post at the job-site(s) notifying all potential applicants/employees that Preference in Employment is required on this Project and the Tribal Employment Rights Office, for the Hualapai Tribe, P.O. Box 179, Peach Springs, AZ- 86434, Phone No. 928/769-2216 is to be contacted for employment.

THE FOREGOING COMPLIANCE PLAN IS FULLY ACCEPTABLE ON BEHALF OF; _____ **AND THE**
(COMPANY)

TRIBAL EMPLOYMENT RIGHTS OFFICE DATED; _____ **2000.**

COMPANY REPRESENTATIVE; _____
SIGNATURE & DATE)

APPROVED AND ACCEPTED BY; _____
SIGNATURE & DATE)

FOR THE TRIBAL EMPLOYMENT RIGHTS OFFICE.

EXHIBIT C

PROPOSAL CERTIFICATION

EXHIBIT C PROPOSAL CERTIFICATION

1. Principal place of Business:

Does Offeror have an established office or facility in Kingman or the surrounding area? Yes___No___

If yes, indicate address below if different than Principal place of Business.

Year established in Kingman or surrounding area: _____

% of Services that will be provided from this location: _____%

2. The ability to provide a certificate of insurance evidencing the required coverage types and limits specified in Minimum Insurance Requirements exhibit. (It will be necessary that this certificate reflect the Hualapai Tribe as an Additional Insured as applicable.)

Indicate your ability to comply with the following requirements:

The Hualapai Tribe shall be added as an Additional Insured to all liability policies: Yes___ No___

Your property and liability insurance company is licensed to do business in Arizona: Yes___ No___

Indicate the name of your property and liability insurance company here:

Name: _____

Your property and liability insurance company has an AM best rating of not less than B+ and/or VII:

Yes___ No___

Worker's Compensation Insurance is carried for all employees and covers work done in Arizona.

Yes___ No___

3. One (1) copy of the current financial statements. Enclose financial information in a separate envelope; do not bind with the other proposal copies.

4. Provide a response to the following: Are any lawsuits; federal, state or local tax liens; or any potential claims or liabilities pending against you, the firm, or the officers of the firm at this time?

Yes___ No___

If yes, provide details on a separate sheet and attach to your proposal.

5. Provide all information and intent to comply with Section 7(b) of the Indian Self-determination and Education Assistance Act [25 U.S.C. 450e(b)] regarding Native American owned, controlled, or managed economic enterprises, as well as Native American Preference and DBE requirements for employment, training, and subcontracting.

6. The completed and signed proposal. Proposals must be identified according to the outline of this RFP document. All required Exhibits are attached.

The Offeror certifies that no person or firm other than the Offeror or as otherwise indicated has any interest whatsoever in this offer or the Contract that may be entered into as a result of this offer and that in all respects the offer is legal and firm, submitted in good faith without collusion or fraud.

Offeror has delegated _____ as the Offeror's representative and contact for all questions or clarifications in regard to this Offer.

Telephone # (____) _____

E-mail: _____

Return this form with your Proposal.

EXHIBIT D

**FEDERAL TRANSIT ADMINISTRATION
(FTA)
REQUIRED CLAUSES**

FEDERAL TRANSIT ADMINISTRATION (FTA) REQUIRED CLAUSES

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Hualapai Tribe 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 Hualapai Tribe, 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 FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

**31 U.S.C. 3801 et seq.
49 CFR Part 31 18 U.S.C. 1001
49 U.S.C. 5307**

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. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

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.

ACCESS TO RECORDS AND REPORTS

**49 U.S.C. 5325
18 CFR 18.36 (i)
49 CFR 633.17**

The following access to records requirements apply to this Contract:

Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any

PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than five years from the date of final payment to the contractor for auditing, inspection, and copying upon the State's request, or at the request of the funding Federal agency or any other authorized representative of the Federal Government. The contractor shall insert in each of its subcontracts the above requirement and also a clause requiring its subcontractors to include the above requirement in any lower-tier subcontracts or purchase orders. With the exception of litigation or settlement of claims arising from the performance of this contract, the Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

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

Requirements for Access to Records and Reports by Types of Contract

Contract Characteristics	Operational Service Contract	Turnkey	Construction	Architectural Engineering	Acquisition of Rolling Stock	Professional Services
I State Grantees						
a. Contracts below SAT (\$100,000)	None	Those imposed on state pass thru to Contractor	None	None	None	None
b. Contracts above \$100,000 Capital Projects	None unless ¹ non-competitive award		Yes, if non-competitive award or if funded thru ² 5307/5309/5311	None unless non-competitive award	None unless non-competitive award	None unless non-competitive award
II Non State Grantees						
a. Contracts below SAT (\$100,000)	Yes ³	Those imposed on non-state Grantee pass thru to Contractor	Yes	Yes	Yes	Yes
b. Contracts above \$100,000 Capital Projects	Yes ³		Yes	Yes	Yes	Yes

Sources of Authority:

- 1 49 USC 5325 (a)**
- 2 49 CFR 633.17**
- 3 18 CFR 18.36 (i)**

FEDERAL CHANGES

49 CFR Part 18

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

Changes to Contract Scope:

Federal legislation and implementing regulations allow for change orders within the scope of the work covered by the contract. In the event of changed conditions, an adjustment of contract scope is permissible if the altered character of the work does not differ materially from that of the original contract as long as the work is approved by the FTA Project Manager with the requirement that the change must involve the work covered by the contract. Changes that materially differ from the scope of work are considered Cardinal Changes and are not permissible. All work changes must be reviewed by the Contracts Program Manager and/or FTA Procurement Officer in advance of proceeding to ensure the change is permissible under Federal requirements and regulations. Work cannot proceed until appropriate financial and administrative processing has occurred and any federal approvals are received when and where necessary and a modified purchase order is issued."

CIVIL RIGHTS REQUIREMENTS

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

The following requirements apply to the underlying contract:

Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

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

Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

49 CFR Part 26

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is 6%. A separate contract goal has **not** been established for this procurement.

The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the **Hualapai Tribe** deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

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

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 from the **Hualapai Tribe**. In addition, the contractor may not hold retainage from its subcontractors.

The contractor must promptly notify the **Hualapai Tribe**, 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 Hualapai Tribe.

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

TERMINATION

49 U.S.C. Part 18

Termination for Convenience

The **Hualapai Tribe** may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government'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 the **Hualapai Tribe** to be paid the Contractor. If the Contractor has any property in its possession belonging to the **Hualapai Tribe**, the Contractor will account for the same, and dispose of it in the manner the **Hualapai Tribe** directs.

Termination for Default [Breach or Cause]

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 **Hualapai Tribe** 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 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 the **Hualapai Tribe** 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 **Hualapai Tribe**, 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

The **Hualapai Tribe** 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 the **Hualapai Tribe's** satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from the **Hualapai Tribe** setting forth the nature of said breach or default, the **Hualapai Tribe** 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 the **Hualapai Tribe** 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 the **Hualapai Tribe** elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by the **Hualapai Tribe** shall not limit the **Hualapai Tribe's** remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

BREACHES AND DISPUTE RESOLUTION

49 CFR Part 18

Disputes

Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the **Hualapai Tribe**. 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 **Hualapai Tribal Council**. 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 Tribal Council shall be binding upon the Contractor and the Contractor shall abide by the decision. The Hualapai Tribe, unless otherwise provided for in the Contract retains its sovereignty, including immunity from suit.

Performance during Dispute

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

Claims for Damages

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

Remedies

Unless this contract provides otherwise, the Hualapai Tribe retains its sovereignty, including immunity from suit. Any claims arising under the contract between the parties shall be brought in the Hualapai Tribal Court and shall apply Hualapai Law and any applicable federal law. Claims against the Tribe shall be limited to declaratory and injunctive relief unless otherwise specified by the Contract.

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 **Hualapai Tribe**, 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.

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

CLEAN AIR

**42 U.S.C. 7401 et seq
40 CFR 15.61
49 CFR Part 18**

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

CLEAN WATER REQUIREMENTS

33 U.S.C. 1251

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

CARGO PREFERENCE REQUIREMENTS

**46 U.S.C. 1241
46 CFR Part 381**

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

FLY AMERICA REQUIREMENTS

**49 U.S.C. §40118
41 CFR Part 301-10**

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

ENERGY CONSERVATION REQUIREMENTS

**42 U.S.C. 6321 et seq.
49 CFR Part 18**

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.

RECYCLED PRODUCTS

**42 U.S.C. 6962
40 CFR Part 247
Executive Order 12873**

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

BUY AMERICA REQUIREMENTS

**49 U.S.C. 5323(j)
49 CFR Part 661**

BUY AMERICA CERTIFICATION

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

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

§661.1 Applicability.

Unless otherwise noted, this part applies to all federally assisted procurements using funds authorized by 49 U.S.C. 5323(j); 23 U.S.C. 103(e)(4); and section 14 of the National Capital Transportation Act of 1969, as amended. [56 FR 932, Jan. 9, 1991, as amended at 72 FR 53696, Sept. 20, 2007]

§661.3 Definitions.

As used in this part:

Act means the Federal Public Transportation Law (49 U.S.C. Chapter 53).

Administrator means the Administrator of FTA, or designee.

Component means any article, material, or supply, whether manufactured or unmanufactured, that is directly incorporated into the end product at the final assembly location.

Contractor means a party to a third party contract other than the grantee.

End product means any vehicle, structure, product, article, material, supply, or system, which directly incorporates constituent components at the final assembly location, that is acquired for public use under a federally-funded third-party contract, and which is ready to provide its intended end function or use without any further manufacturing or assembly change(s). A list of representative end products is included at Appendix A to this section.

FTA means the Federal Transit Administration.

Grantee means any entity that is a recipient of FTA funds.

Manufactured product means an item produced as a result of the manufacturing process.

Manufacturing process means the application of processes to alter the form or function of materials or of elements of the product in a manner adding value and transforming those materials or elements so that they represent a new end product functionally different from that which would result from mere assembly of the elements or materials.

Negotiated procurement means a contract awarded using other than sealed bidding procedures.

Rolling stock means transit vehicles such as buses, vans, cars, railcars, locomotives, trolley cars and buses, and ferry boats, as well as vehicles used for support services.

System means a machine, product, or device, or a combination of such equipment, consisting of individual components, whether separate or interconnected by piping, transmission devices, electrical cables or circuitry, or by other devices, which are intended to contribute together to a clearly defined function. Factors to consider in determining whether a system constitutes an end product include: Whether performance warranties apply to an integrated system (regardless of whether components are separately warranted); whether products perform on an integrated basis with other products in a system, or are operated independently of associated products in the system; or whether transit agencies routinely procure a product separately (other than as replacement or spare parts).

United States means the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

APPENDIX A TO §661.3—END PRODUCTS

The following is a list of representative end products that are subject to the requirements of Buy America. This list is representative, not exhaustive.

(1) *Rolling stock end products*: All individual items identified as rolling stock in §661.3 (e.g., buses, vans, cars, railcars, locomotives, trolley cars and buses, ferry boats, as well as vehicles used for support services); train control, communication, and traction power equipment that meets the definition of end product at §661.3 (e.g., a communication or traction power system, including manufactured bimetallic power rail).

(2) *Steel and iron end products*: Items made primarily of steel or iron such as structures, bridges, and track work, including running rail, contact rail, and turnouts.

(3) *Manufactured end products*: Infrastructure projects not made primarily of steel or iron, including structures (terminals, depots, garages, and bus shelters), ties and ballast; contact rail not made primarily of steel or iron; fare collection systems; computers; information systems; security systems; data processing systems; and mobile lifts, hoists, and elevators. [72 FR 53696, Sept. 20, 2007, as amended at 74 FR 30239, June 25, 2009]

§661.5 General requirements.

(a) Except as provided in §661.7 and §661.11 of this part, no funds may be obligated by FTA for a grantee project unless all iron, steel, and manufactured products used in the project are produced in the United States.

(b) All steel and iron manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.

(c) The steel and iron requirements apply to all construction materials made primarily of steel or iron and used in infrastructure projects such as transit or maintenance facilities, rail lines, and bridges. These items include, but are not limited to, structural steel or iron, steel or iron beams and columns, running rail and contact rail. These requirements do not apply to steel or iron used as components or subcomponents of other manufactured products or rolling stock, or to bimetallic power rail incorporating steel or iron components.

(d) For a manufactured product to be considered produced in the United States:

(1) All of the manufacturing processes for the product must take place in the United States; and

(2) All of the components of the product must be of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents.

[61 FR 6302, Feb. 16, 1996, as amended at 74 FR 30239, June 25, 2009]

§661.6 Certification requirements for procurement of steel or manufactured products.

If steel, iron, or manufactured products (as defined in §§661.3 and 661.5 of this part) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder or offeror in accordance with the requirement contained in §661.13(b) of this part.

Certificate of Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 CFR part 661.

Date _____

Signature _____

Company _____

Name _____

Title _____

Certificate of Non-Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 CFR 661.7.

Date _____

Signature _____

Company _____

Name _____

Title _____

[71 FR 14117, Mar. 21, 2006, as amended at 72 FR 53696, Sept. 20, 2007]

§661.7 Waivers.

(a) Section 5323(j)(2) of Title 49 United States Code provides that the general requirements of 49 U.S.C. 5323(j)(1) shall not apply in four specific instances. This section sets out the conditions for the three statutory waivers based on public interest, non-availability, and price-differential. Section 661.11 of this part sets out the conditions for the fourth statutory waiver governing the procurement of rolling stock and associated equipment.

(b) Under the provision of 49 U.S.C. 5323(j)(2)(A), the Administrator may waive the general requirements of 49 U.S.C. 5323(j)(1) if the Administrator finds that their application would be inconsistent with the public interest. In determining whether the conditions exist to grant this public interest waiver, the Administrator will consider all appropriate factors on a case-by-case basis, unless a general exception is specifically set out in this part. When granting a public interest waiver, the Administrator shall issue a detailed written statement justifying why the waiver is in the public interest. The Administrator shall publish this justification in the FEDERAL REGISTER, providing the public with a reasonable time for notice and comment of not more than seven calendar days.

(c) Under the provision of 49 U.S.C. 5323(j)(2), the Administrator may waive the general requirements of 49 U.S.C. 5323(j) if the Administrator finds that the materials for which a waiver is requested are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

(1) It will be presumed that the conditions exist to grant this non-availability waiver if no responsive and responsible bid is received offering an item produced in the United States.

(2) In the case of a sole source procurement, the Administrator will grant this non-availability waiver only if the grantee provides sufficient information which indicates that the item to be procured is only available from a single source or that the item to be procured is not produced in sufficient and reasonably available quantities of a satisfactory quality in the United States.

(3) After contract award, the Administrator may grant a non-availability waiver under this paragraph, in any case in which a bidder or offeror originally certified compliance with the Buy America requirements in good faith, but can no longer comply with its certification. The Administrator will grant a non-availability waiver only if the grantee provides sufficient evidence that the original certification was made in good faith and that the item to be procured cannot now be obtained domestically due to commercial impossibility or impracticability. In determining whether the conditions exist to grant a post-award non-availability waiver, the Administrator will consider all appropriate factors on a case-by-case basis.

(d) Under the provision of section 165(b)(4) of the Act, the Administrator may waive the general requirements of section 165(a) if the Administrator finds that the inclusion of a domestic item or domestic material will increase the cost of the contract between the grantee and its supplier of that item or material by more than 25 percent. The Administrator will grant this price-differential waiver if the amount of the lowest responsive and responsible bid offering the item or material that is not produced in the United States multiplied by 1.25 is less than the amount of the lowest responsive and responsible bid offering the item or material produced in the United States.

(e) The four statutory waivers of 49 U.S.C. 5323(j)(2) as set out in this part shall be treated as being separate and distinct from each other.

(f) The waivers described in paragraphs (b) and (c) of this section may be granted for a component or subcomponent in the case of the procurement of the items governed by 49 U.S.C. 5323(j)(2)(C) (requirements for rolling stock). If a waiver is granted for a component or a subcomponent, that component or subcomponent will be considered to be of domestic origin for the purposes of §661.11 of this part.

(g) The waivers described in paragraphs (b) and (c) of this section may be granted for a specific item or material that is used in the production of a manufactured product that is governed by the requirements of §661.5(d) of this part. If such a waiver is granted to such a specific item or material, that item or material will be treated as being of domestic origin.

(h) The provisions of this section shall not apply to products produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, determines that:

(1) That foreign country is party to an agreement with the United States pursuant to which the head of an agency of the United States has waived the requirements of this section; and

(2) That foreign country has violated the terms of the agreement by discriminating against products covered by this section that are produced in the United States and are covered by the agreement.

APPENDIX A TO §661.7—GENERAL WAIVERS

(a) All waivers published in 48 CFR 25.104 which establish excepted articles, materials, and supplies for the Buy American Act of 1933 (41 U.S.C. 10a-d), as the waivers may be amended from time to time, apply to this part under the provisions of §661.7 (b) and (c).

(b) Under the provisions of §661.7 (b) and (c) of this part, a general public interest waiver from the Buy America requirements applies to microprocessors, computers, microcomputers, or software, or other such devices, which are used solely for the purpose of processing or storing data. This general waiver does not extend to a product or device which merely contains a microprocessor or microcomputer and is not used solely for the purpose of processing or storing data.

(c) Under the provisions of §661.7(b) of this part, a general public interest waiver from the Buy America requirements for “small purchases” (as defined in the “common grant rule,” at 49 CFR 18.36(d)) made by FTA grantees with capital, planning, or operating assistance.

[56 FR 932, Jan. 9, 1991, as amended at 60 FR 37928, July 24, 1995, 61 FR 6302, Feb. 16, 1996; 71 FR 14117, Mar. 21, 2006; 72 FR 53697, Sept. 20, 2007; 74 FR 30239, June 25, 2009]

§661.9 Application for waivers.

(a) This section sets out the application procedures for obtaining all waivers, except those general exceptions set forth in this part for which individual applications are unnecessary and those covered by 49 U.S.C. 5323(j)(2)(C). The procedures for obtaining an exception covered by 49 U.S.C. 5323(j)(2)(C) are set forth in §661.11 of this part.

(b) A bidder or offeror who seeks to establish grounds for an exception must seek the exception, in a timely manner, through the grantee.

(c) Except as provided in paragraph (d) of this section, only a grantee may request a waiver. The request must be in writing, include facts and justification to support the waiver, and be submitted to the Administrator through the appropriate Regional Office.

(d) FTA will consider a request for a waiver from a potential bidder, offeror, or supplier only if the waiver is being sought under §661.7 (f) or (g) of this part.

(e) The Administrator will issue a written determination setting forth the reasons for granting or denying the exception request. Each request for an exception, and FTA's action on the request, are available for public inspection under the provisions of 49 CFR part 601, subpart C.

[56 FR 932, Jan. 9, 1991, as amended at 71 FR 14117, Mar. 21, 2006; 72 FR 53697, Sept. 20, 2007]

§661.11 Rolling stock procurements.

(a) The provisions of §661.5 do not apply to the procurement of buses and other rolling stock (including train control, communication, and traction power equipment), if the cost of components produced in the United States is more than 60 percent of the cost of all components and final assembly takes place in the United States.

(b) The domestic content requirements in paragraph (a) of this section also apply to the domestic content requirements for components set forth in paragraphs (i), (j), and (l) of this section.

(c) A component is any article, material, or supply, whether manufactured or unmanufactured, that is directly incorporated into an end product at the final assembly location.

(d) A component may be manufactured at the final assembly location if the manufacturing process to produce the component is an activity separate and distinct from the final assembly of the end product.

(e) A component is considered to be manufactured if there are sufficient activities taking place to advance the value or improve the condition of the subcomponents of that component; that is, if the subcomponents have been substantially transformed or merged into a new and functionally different article.

(f) Except as provided in paragraph (k) of this section, a subcomponent is any article, material, or supply, whether manufactured or unmanufactured, that is one step removed from a component (as defined in paragraph (c) of this section) in the manufacturing process and that is incorporated directly into a component.

(g) For a component to be of domestic origin, more than 60 percent of the subcomponents of that component, by cost, must be of domestic origin, and the manufacture of the component must take place in the United States. If, under the terms of this part, a component is determined to be of domestic origin, its entire cost may be used in calculating the cost of domestic content of an end product.

(h) A subcomponent is of domestic origin if it is manufactured in the United States.

(i) If a subcomponent manufactured in the United States is exported for inclusion in a component that is manufactured outside the United States and it receives tariff exemptions under the procedures set forth in 19 CFR 10.11 through 10.24, the subcomponent retains its domestic identity and can be included in the calculation of the domestic content of an end product even if such a subcomponent represents less than 60 percent of the cost of a particular component.

(j) If a subcomponent manufactured in the United States is exported for inclusion in a component manufactured outside the United States and it does not receive tariff exemption under the procedures set forth in 19 CFR 10.11 through 10.24, the subcomponent loses its domestic identity and cannot be included in the calculation of the domestic content of an end product.

(k) Raw materials produced in the United States and then exported for incorporation into a component are not considered to be a subcomponent for the purpose of calculating domestic content. The value of such raw materials is to be included in the cost of the foreign component.

(l) If a component is manufactured in the United States, but contains less than 60 percent domestic subcomponents, by cost, the cost of the domestic subcomponents and the cost of manufacturing the component may be included in the calculation of the domestic content of the end product.

(m) For purposes of this section, except as provided in paragraph (o) of this section:

(1) The cost of a component or a subcomponent is the price that a bidder or offeror must pay to a subcontractor or supplier for that component or subcomponent. Transportation costs to the final assembly location must be included in calculating the cost of foreign components and subcomponents.

(2) If a component or subcomponent is manufactured by the bidder or offeror, the cost of the component is the cost of labor and materials incorporated into the component or subcomponent, an allowance for profit, and the administrative and overhead costs attributable to that component or subcomponent under normal accounting principles.

(n) The cost of a component of foreign origin is set using the foreign exchange rate at the time the bidder or offeror executes the appropriate Buy America certificate.

(o) The cost of a subcomponent that retains its domestic identity consistent with paragraph (j) of this section shall be the cost of the subcomponent when last purchased, f.o.b. United States port of exportation or point of border crossing as set out in the invoice and entry papers or, if no purchase was made, the value of the subcomponent at the time of its shipment for exportation, f.o.b. United States port of exportation or point of border crossing as set out in the invoice and entry papers.

(p) In accordance with 49 U.S.C. 5323(j), labor costs involved in final assembly shall not be included in calculating component costs.

(q) The actual cost, not the bid price, of a component is to be considered in calculating domestic content.

(r) Final assembly is the creation of the end product from individual elements brought together for that purpose through application of manufacturing processes. If a system is being procured as the end product by the grantee, the installation of the system qualifies as final assembly.

(s) [Reserved]

(t) Train control equipment includes, but is not limited to, the following equipment:

- (1) Mimic board in central control
- (2) Dispatcher's console
- (3) Local control panels
- (4) Station (way side) block control relay cabinets
- (5) Terminal dispatcher machines
- (6) Cable/cable trays
- (7) Switch machines
- (8) Way side signals
- (9) Impedance bonds
- (10) Relay rack bungalows
- (11) Central computer control
- (12) Brake equipment
- (13) Brake systems
- (14) Cab Signaling;
- (15) ATO Equipment;
- (16) ATP Equipment;
- (17) Wayside Transponders;
- (18) Trip Stop Equipment;
- (19) Wayside Magnets;
- (20) Speed Measuring Devices;
- (21) Car Axle Counters;
- (22) Communication Based Train Control (CBTC).

(u) Communication equipment includes, but is not limited to, the following equipment:

- (1) Radios
- (2) Space station transmitter and receivers
- (3) Vehicular and hand-held radios
- (4) PABX telephone switching equipment
- (5) PABX telephone instruments
- (6) Public address amplifiers
- (7) Public address speakers
- (8) Cable transmission system cable
- (9) Cable transmission system multiplex equipment
- (10) Communication console at central control
- (11) Uninterruptible power supply inverters/rectifiers
- (12) Uninterruptible power supply batteries
- (13) Data transmission system central processors
- (14) Data transmission system remote terminals
- (15) Line printers for data transmission system
- (16) Communication system monitor test panel
- (17) Security console at central control
- (18) Antennas;
- (19) Wireless Telemetry Equipment;
- (20) Passenger Information Displays;
- (21) Communications Control Units;
- (22) Communication Control Heads;
- (23) Wireless Intercar Transceivers;
- (24) Multiplexers;
- (25) SCADA Systems;

- (26) LED Arrays;
- (27) Screen Displays such as LEDs and LCDs for communication systems;
- (28) Fiber-optic transmission equipment;
- (29) Fiber-optic transmission equipment;
- (30) Frame or cell based multiplexing equipment; 13) Communication system network elements.
- (v) Traction power equipment includes, but is not limited to the following:
 - (1) Primary AC switch gear
 - (2) Primary AC transformer rectifiers
 - (3) DC switch gear
 - (4) Traction power console and CRT display system at central control
 - (5) Bus ducts with buses (AC and DC)
 - (6) Batteries
 - (7) Traction power rectifier assemblies
 - (8) Distribution panels (AC and DC)
 - (9) Facility step-down transformers
 - (10) Motor control centers (facility use only)
 - (11) Battery chargers
 - (12) Supervisory control panel
 - (13) Annunciator panels
 - (14) Low voltage facility distribution switch board
 - (15) DC connect switches
 - (16) Negative bus boxes
 - (17) Power rail insulators
 - (18) Power cables (AC and DC)
 - (19) Cable trays
 - (20) Instrumentation for traction power equipment
 - (21) Connectors, tensioners, and insulators for overhead power wire systems
 - (22) Negative drainage boards
 - (23) Inverters
 - (24) Traction motors
 - (25) Propulsion gear boxes
 - (26) Third rail pick-up equipment
 - (27) Pantographs
 - (28) Propulsion Control Systems;
 - (29) Surge Arrestors;
 - (30) Protective Relaying.
 - (31) Bimetallic power rail.

(w) The power or third rail is not considered traction power equipment and is thus subject to the requirements of 49 U.S.C. 5323(j) and the requirements of §661.5.

(x) A bidder on a contract for an item covered by 49 U.S.C. 5323(j) who will comply with section 165(b)(3) and regulations in this section is not required to follow the application for waiver procedures set out in §661.9. In lieu of these procedures, the bidder must submit the appropriate certificate required by §661.12.

APPENDIX A TO §661.11—GENERAL WAIVERS

(a) The provisions of §661.11 of this part do not apply when foreign sourced spare parts for buses and other rolling stock (including train control, communication, and traction power equipment) whose total cost is 10 percent or less of the overall project contract cost are being procured as part of the same contract for the major capital item.

(b) [Reserved]

APPENDIX B TO §661.11—TYPICAL COMPONENTS OF BUSES

The following is a list of items that typically would be considered components of a bus. This list is not all-inclusive.

Car body shells, engines, transmissions, front axle assemblies, rear axle assemblies, drive shaft assemblies, front suspension assemblies, rear suspension assemblies, air compressor and pneumatic systems, generator/alternator and electrical systems, steering system assemblies, front and rear air brake assemblies, air conditioning compressor assemblies, air conditioning evaporator/condenser assemblies, heating systems. passenger seats, driver's seat assemblies, window assemblies, entrance

and exit door assemblies, door control systems, destination sign assemblies, interior lighting assemblies, front and rear end cap assemblies, front and rear bumper assemblies, specialty steel (structural steel tubing, etc.) aluminum extrusions, aluminum, steel or fiberglass exterior panels, and interior trim, flooring, and floor coverings.

APPENDIX C TO §661.11—TYPICAL COMPONENTS OF RAIL ROLLING STOCK

The following is a list of items that typically would be considered components of rail rolling stock. This list is not all inclusive.

Car shells, engines, main transformer, pantographs, traction motors, propulsion gear boxes, interior linings, acceleration and braking resistors, propulsion controls, low voltage auxiliary power supplies, air conditioning equipment, air brake compressors, brake controls, foundation brake equipment, articulation assemblies, train control systems, window assemblies, communication equipment, lighting, seating, doors, door actuators and controls, wheelchair lifts and ramps to make the vehicle accessible to persons with disabilities, couplers and draft gear, trucks, journal bearings, axles, diagnostic equipment, and third rail pick-up equipment.

APPENDIX D TO §661.11—MINIMUM REQUIREMENTS FOR FINAL ASSEMBLY

(a) Rail Cars: In the case of the manufacture of a new rail car, final assembly would typically include, as a minimum, the following operations: installation and interconnection of propulsion control equipment, propulsion cooling equipment, brake equipment, energy sources for auxiliaries and controls, heating and air conditioning, communications equipment, motors, wheels and axles, suspensions and frames; the inspection and verification of all installation and interconnection work; and the in-plant testing of the stationary product to verify all functions.

(b) Buses: In the case of a new bus, final assembly would typically include, at a minimum, the installation and interconnection of the engine, transmission, axles, including the cooling and braking systems; the installation and interconnection of the heating and air conditioning equipment; the installation of pneumatic and electrical systems, door systems, passenger seats, passenger grab rails, destination signs, wheelchair lifts; and road testing, final inspection, repairs and preparation of the vehicles for delivery.

(c) If a manufacturer's final assembly processes do not include all the activities that are typically considered the minimum requirements, it can request a Federal Transit Administration (FTA) determination of compliance. FTA will review these requests on a case-by-case basis to determine compliance with Buy America. [61 FR 6302, Feb. 16, 1996, as amended at 62 FR 40954, July 31, 1997; 72 FR 53697, Sept. 20, 2007; 72 FR 55103, Sept. 28, 2007; 74 FR 30239, June 25, 2009]

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

If buses or other rolling stock (including train control, communication, and traction power equipment) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder in accordance with the requirement contained in §661.13(b) of this part.

Certificate of Compliance with Buy America Rolling Stock Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j), and the applicable regulations of 49 CFR 661.11.

Date _____

Signature _____

Company _____

Name _____

Title _____

Certificate of Non-Compliance with Buy America Rolling Stock Requirements

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but may qualify for an exception to the requirement consistent with 49 U.S.C. 5323(j)(2)(C), and the applicable regulations in 49 CFR 661.7.

Date _____

Signature _____

Company _____

Name _____

Title _____

[71 FR 14117, Mar. 21, 2006, as amended at 72 FR 53698, Sept. 20, 2007; 74 FR 30239, June 25, 2009]

§661.13 Grantee responsibility.

(a) The grantee shall adhere to the Buy America clause set forth in its grant contract with FTA.

(b) The grantee shall include in its bid or request for proposal (RFP) specification for procurement within the scope of this part an appropriate notice of the Buy America provision. Such specifications shall require, as a condition of responsiveness, that the bidder or offeror submit with the bid or offer a completed Buy America certificate in accordance with §§661.6 or 661.12 of this part, as appropriate.

(1) A bidder or offeror who has submitted an incomplete Buy America certificate or an incorrect certificate of noncompliance through inadvertent or clerical error (but not including failure to sign the certificate, submission of certificates of both compliance and non-compliance, or failure to submit any certification), may submit to the FTA Chief Counsel within ten (10) days of bid opening of submission or a final offer, a written explanation of the circumstances surrounding the submission of the incomplete or incorrect certification in accordance with 28 U.S.C. 1746, sworn under penalty of perjury, stating that the submission resulted from inadvertent or clerical error. The bidder or offeror will also submit evidence of intent, such as information about the origin of the product, invoices, or other working documents. The bidder or offeror will simultaneously send a copy of this information to the FTA grantee.

(i) The FTA Chief Counsel may request additional information from the bidder or offeror, if necessary. The grantee may not make a contract award until the FTA Chief Counsel issues his/her determination, except as provided in §661.15(m).

(ii) [Reserved]

(2) For negotiated procurements, compliance with the Buy America requirements shall be determined on the basis of the certification submitted with the final offer or final revised proposal. However, where a grantee awards on the basis of initial proposals without discussion, the certification submitted with the initial proposal shall control.

(3) Certification based on ignorance of the proper application of the Buy America requirements is not an inadvertent or clerical error.

(c) Whether or not a bidder or offeror certifies that it will comply with the applicable requirement, such bidder or offeror is bound by its original certification (in the case of a sealed bidding procurement) or its certification submitted with its final offer (in the case of a negotiated procurement) and is not permitted to change its certification after bid opening or submission of a final offer. Where a bidder or offeror certifies that it will comply with the applicable Buy America requirements, the bidder, offeror, or grantee is not eligible for a waiver of those requirements.

[56 FR 932, Jan. 9, 1991, as amended at 68 FR 9799, Feb. 28, 2003; 71 FR 14117, Mar. 21, 2006]

§661.15 Investigation procedures.

(a) It is presumed that a bidder or offeror who has submitted the required Buy America certificate is complying with the Buy America provision. A false certification is a criminal act in violation of 18 U.S.C. 1001.

(b) Any party may petition FTA to investigate the compliance of a successful bidder or offeror with the bidder's or offeror's certification. That party ("the petitioner") must include in the petition a statement of the grounds of the petition and any supporting documentation. If FTA determines that the information presented in the petition indicates that the presumption in paragraph (a) of this section has been overcome, FTA will initiate an investigation.

(c) In appropriate circumstances, FTA may determine on its own to initiate an investigation without receiving a petition from a third party.

(d) When FTA determines under paragraph (b) or (c) of this section to conduct an investigation, it requests that the grantee require the successful bidder or offeror to document its compliance with its Buy America certificate. The successful

bidder or offeror has the burden of proof to establish that it is in compliance. Documentation of compliance is based on the specific circumstances of each investigation, and FTA will specify the documentation required in each case.

(e) The grantee shall reply to the request under paragraph (d) of this section within 15 working days of the request. The investigated party may correspond directly with FTA during the course of investigation, if it informs the grantee that it intends to do so, and if the grantee agrees to such action in writing. The grantee must inform FTA, in writing, that the investigated party will respond directly to FTA. An investigated party may provide confidential or proprietary information (see paragraph (l) of this section) directly to FTA while providing other information required to be submitted as part of the investigation through the grantee.

(f) Any additional information requested or required by FTA must be submitted within 5 working days after the receipt of such request unless specifically exempted by FTA.

(g) The grantee's reply (or that of the bidder or offeror) will be transmitted to the petitioner. The petitioner may submit comments on the reply to FTA within 10 working days after receipt of the reply. The grantee and the low bidder or offeror will be furnished with a copy of the petitioner's comments, and their comments must be received by FTA within 5 working days after receipt of the petitioner's comments.

(h) The failure of a party to comply with the time limits stated in this section may result in resolution of the investigation without consideration of untimely filed comments.

(i) During the course of an investigation, with appropriate notification to affected parties, FTA may conduct site visits of manufacturing facilities and final assembly locations as it considers appropriate.

(j) FTA will, upon request, make available to any interested party information bearing on the substance of the investigation which has been submitted by the petitioner, interested parties or grantees, except to the extent that withholding of information is permitted or required by law or regulation.

(k) If a party submitting information considers that the information submitted contains proprietary material which should be withheld, a statement advising FTA of this fact may be included, and the alleged proprietary information must be identified wherever it appears. Any comments on the information provided shall be submitted within a maximum of ten days.

(l) For purposes of paragraph (j) of this section, confidential or proprietary material is any material or data whose disclosure could reasonably be expected to cause substantial competitive harm to the party claiming that the material is confidential or proprietary.

(m) When a petition for investigation has been filed before award, the grantee will not make an award before the resolution of the investigation, unless the grantee determines that:

- (1) The items to be procured are urgently required;
- (2) Delivery of performance will be unduly delayed by failure to make the award promptly; or
- (3) Failure to make prompt award will otherwise cause undue harm to the grantee or the Federal Government.

(n) In the event that the grantee determines that the award is to be made during the pendency of an investigation, the grantee will notify FTA before making such award. FTA reserves the right not to participate in the funding of any contract awarded during the pendency of an investigation.

(o) Initial decisions by FTA will be in written form. Reconsideration of an initial decision of FTA may be requested by any party involved in an investigation. FTA will only reconsider a decision only if the party requesting reconsideration submits new matters of fact or points of law that were not known or available to the party during the investigation. A request for reconsideration of a decision of FTA shall be filed not later than ten (10) working days after the initial written decision. A request for reconsideration will be subject to the procedures in this section consistent with the need for prompt resolution of the matter.

[56 FR 932, Jan. 9, 1991, as amended at 71 FR 14118, Mar. 21, 2006]

§661.17 Failure to comply with certification.

If a successful bidder or offeror fails to demonstrate that it is in compliance with its certification, it will be required to take the necessary steps in order to achieve compliance. If a bidder or offeror takes these necessary steps, it will not be allowed to change its original bid price or the price of its final offer. If a bidder or offeror does not take the necessary steps, it will not be awarded the contract if the contract has not yet been awarded, and it is in breach of contract if a contract has been awarded. [71 FR 14118, Mar. 21, 2006]

§661.18 Intentional violations.

A person shall be ineligible to receive any contract or subcontract made with funds authorized under the Federal Public Transportation Act of 2005 pursuant to part 29 of this title if it has been determined by a court or Federal agency that the person intentionally—

(a) Affixed a label bearing a "Made in America" inscription, or an inscription with the same meaning, to a product not made in the United States, but sold in or shipped to the United States and used in projects to which this section applies, or

(b) Otherwise represented that any such product was produced in the United States.
[61 FR 6303, Feb. 16, 1996, as amended at 72 FR 53698, Sept. 20, 2007]

§661.19 Sanctions.

A willful refusal to comply with a certification by a successful bidder or offeror may lead to the initiation of debarment or suspension proceedings under part 29 of this title.
[71 FR 14118, Mar. 21, 2006]

§661.20 Rights of parties.

(a) A party adversely affected by an FTA action under this subsection shall have the right to seek review under the Administrative Procedure Act (APA), 5 U.S.C. 702 *et seq.*

(b) Except as provided in paragraph (a) of this section, the sole right of any third party under the Buy America provision is to petition FTA under the provisions of §661.15 of this part. No third party has any additional right, at law or equity, for any remedy including, but not limited to, injunctions, damages, or cancellation of the Federal grant or contracts of the grantee.
[71 FR 14118, Mar. 21, 2006]

§661.21 State Buy America provisions.

(a) Except as provided in paragraph (b) of this section, any State may impose more stringent Buy America or buy national requirements than contained in section 165 of the Act and the regulations in this part.

(b) FTA will not participate in contracts governed by the following:

(1) State Buy America or Buy National preference provisions which are not as strict as the Federal requirements.

(2) State and local Buy National or Buy America preference provisions which are not explicitly set out under State law.

For example, administrative interpretations of non-specific State legislation will not control.

(3) State and local Buy Local preference provisions.

EXHIBIT E

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

PREFACE

Except as the Federal Transit Administration (FTA or We) determines otherwise in writing, before FTA may award federal assistance for public transportation in the form of a federal grant, cooperative agreement, loan, line of credit, or loan guarantee, certain pre-award Certifications and Assurances are required. The Applicant must authorize a representative (Authorized Representative) to select and sign its Certifications and Assurances and bind the Applicant's compliance. You, as your Applicant's Authorized Representative, must select and sign all Certifications and Assurances that your Applicant must provide to support each application it submits to FTA for federal assistance during federal fiscal year (FY) 2016.

We request that you read each Certification and Assurance and select those that will apply to any application for which your Applicant might seek federal assistance from FTA during FY 2016. As provided by federal laws, regulations, and requirements, only if you select adequate Certifications and Assurances on your Applicant's behalf may FTA award federal assistance.

We have consolidated our Certifications and Assurances into twenty-three (23) Categories. At a minimum, you must select the Assurances in Category 01. If your Applicant requests more than \$100,000 in federal assistance, you must select the "Lobbying" Certification in Category 02, except if your Applicant is an Indian tribe, Indian organization, or an Indian tribal organization. Depending on the nature of your Applicant and the Award it seeks, you may also need to select one or more Certifications and Assurances in Categories 03 through 23. Instead of selecting individual Categories of Certifications and Assurances, however, you may make a single selection that will encompass all twenty-three (23) Categories of Certifications and Assurances that apply to our various programs.

FTA, your Applicant, and you, as your Applicant's Authorized Representative, understand and agree that not every provision of these twenty-three (23) Categories of Certifications and Assurances will apply to every Applicant or every Award or Project included in an Award, even if you make a single selection encompassing all twenty-three (23) Categories. Nor will every provision of each Certification or Assurance within a single Category apply if that provision does not apply to your Applicant or the Award it seeks. The type of Applicant and its application will determine which Certifications and Assurances apply.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected that apply to its Award, itself, any Subrecipient, or any other Third Party Participant in its Award, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including,

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but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant as necessary to assure your Applicant's compliance with the applicable Certifications and Assurances selected on its behalf.

Except as FTA determines otherwise in writing, if your Applicant is a team, consortium, joint venture, or partnership, it understands and agrees that you must identify the activities that each member will perform and the extent to which each member will be responsible for compliance with the Certifications and Assurances selected on its behalf. You also must identify each member's role in the Award, whether as a Recipient, Subrecipient, Third Party Contractor, or other Third Party Participant.

It is important that your Applicant and you also understand that these Certifications and Assurances are pre-award requirements, generally imposed by federal law or regulation, and do not include all federal requirements that may apply to it or its Award. We expect you to submit your Applicant's FY 2016 Certifications and Assurances and its applications for federal assistance in FTA's electronic award and management system, currently the Transit Award Management System (TrAMS). You must be registered in TrAMS to submit to FTA your Applicant's FY 2016 Certifications and Assurances. TrAMS contains fields for selecting among the twenty-three (23) Categories of Certifications and Assurances and a designated field for selecting all twenty-three (23) Categories of Certifications and Assurances. If FTA agrees that you are unable to submit your Applicant's FY 2016 Certifications and Assurances electronically, you must submit the Signature Pages at the end of this document, as FTA directs, marked to show the Categories of Certifications and Assurances that you are submitting.

Be aware that these Certifications and Assurances have been prepared in light of:

- *The Fixing America's Surface Transportation (FAST) Act, Public Law No. 114-94, December 4, 2015,*
- *The Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law No. 112-141, July 6, 2012, as amended by the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, Public Law No. 114-41, July 31, 2015 and other authorizing legislation to be enacted,*
- *FTA's authorizing legislation in effect in FY 2012 or a previous fiscal year, except as superseded by the FAST Act cross-cutting requirements that apply, and*
- *Appropriations Acts or Continuing Resolutions funding the U.S. Department of Transportation during Fiscal Year 2016.*

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CATEGORY 01. REQUIRED CERTIFICATIONS AND ASSURANCES FOR EACH APPLICANT.

Before FTA may provide federal assistance for your Applicant's Award, you must select the Certifications and Assurances in Category 01 in addition to any other Certifications and Assurances that you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications and Assurances in Category 01 that does not apply will not be enforced.

01.A. Certification and Assurance of Authority of the Applicant and Its Authorized Representative.

You certify and affirm that in signing these Certifications, Assurances, and Agreements, both you, as your Applicant's Authorized Representative, and your Applicant's attorney who is authorized to represent your Applicant in legal matters, may undertake the following activities on your Applicant's behalf, in compliance with applicable state, local, or Indian tribal laws, regulations, and requirements and its by-laws or internal rules:

1. Execute and file its application for federal assistance,
2. Execute and file its Certifications, Assurances, Charter Service Agreement, and School Bus Agreement, as applicable, binding its compliance,
3. Execute its Grant Agreement, Cooperative Agreement, Loan, Loan Guarantee, or Line of Credit, for which the Applicant is seeking federal assistance from FTA,
4. Comply with applicable federal laws, regulations, and requirements, and
5. Follow applicable federal guidance.

01.B. Standard Assurances.

On behalf of your Applicant, you assure that it understands and agrees to the following:

1. It will comply with all applicable federal laws, regulations, and requirements in implementing its Award.
2. It is under a continuing obligation to comply with the terms and conditions of its Grant Agreement or Cooperative Agreement with FTA for each Award, including the FTA Master Agreement and other documents incorporated by reference and made part of its Grant Agreement or Cooperative Agreement, or latest amendment thereto.
3. It recognizes that federal laws, regulations, and requirements may be amended from time to time and those amendments may affect the implementation of its Award.
4. It understands that Presidential executive orders and federal guidance, including federal policies and program guidance, may be issued concerning matters affecting it or its Award.

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5. It agrees that the most recent federal laws, regulations, requirements, and guidance will apply to its Award, except as FTA determines otherwise in writing.
6. Except as FTA determines otherwise in writing, it agrees that requirements for FTA programs may vary depending on the fiscal year for which the federal assistance for those programs was appropriated or made available.

01.C. Intergovernmental Review Assurance.

(This assurance in this Category 01.C does not apply to an Indian tribe, an Indian organization, or an Indian tribal organization that applies for federal assistance made available under 49 U.S.C. § 5311(c)(1), which authorizes FTA's Tribal Transit Programs.)

As required by U.S. Department of Transportation (U.S. DOT) regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17, on behalf of your Applicant, you assure that it has submitted or will submit each application for federal assistance to the appropriate state and local agencies for intergovernmental review.

01.D. Nondiscrimination Assurance.

On behalf of your Applicant, you assure that:

1. It will comply with the following laws, regulations, and requirements so that no person in the United States will be denied the benefits of, or otherwise be subjected to discrimination in, any U.S. DOT or FTA assisted program or activity (particularly in the level and quality of transportation services and transportation-related benefits) on the basis of race, color, national origin, religion, sex, disability, or age including:
 - a. Federal transit laws, specifically 49 U.S.C. § 5332 (prohibiting discrimination on the basis of race, color, religion, national origin, sex (including gender identity), disability, age, employment, or business opportunity),
 - b. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d,
 - c. The Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, *et seq.*,
 - d. The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*,
 - e. U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR part 21,
 - f. U.S. DOT regulations, specifically 49 CFR parts 27, 37, 38, and 39, and
 - g. Any other applicable federal statutes that may be signed into law, federal regulations that may be issued, or federal requirements that may be imposed.
2. It will comply with federal guidance implementing federal nondiscrimination laws, regulations, or requirements, except as FTA determines otherwise in writing.

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3. As required by 49 CFR § 21.7:
 - a. It will comply with 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 in the manner that:
 - (1) It implements its Award,
 - (2) It undertakes property acquisitions, and
 - (3) It operates all parts of its facilities, as well as its facilities operated in connection with its Award.
 - b. This assurance applies to its Award and to all parts of its facilities, as well as its facilities used to implement its Award.
 - c. It will promptly take the necessary actions to carry out this assurance, including the following:
 - (1) Notifying the public that discrimination complaints about transportation-related services or benefits may be filed with U.S. DOT or FTA, and
 - (2) Submitting information about its compliance with these provisions to U.S. DOT or FTA upon their request.
 - d. If it transfers U.S. DOT or FTA assisted real property, structures, or improvements to another party, any deeds and instruments recording that transfer will contain a covenant running with the land assuring nondiscrimination:
 - (1) While the property is used for the purpose that the federal assistance is extended, or
 - (2) While the property is used for another purpose involving the provision of similar services or benefits.
 - e. The United States has a right to seek judicial enforcement of any matter arising under:
 - (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
 - (2) U.S. DOT regulations, 49 CFR part 21, or
 - (3) This assurance.
 - f. It will make any changes in its Title VI implementing procedures, as U.S. DOT or FTA may request, to comply with:
 - (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
 - (2) U.S. DOT regulations, 49 CFR part 21, and
 - (3) Federal transit law, 49 U.S.C. § 5332.
 - g. It will comply with applicable federal guidance issued to implement federal nondiscrimination requirements, except as FTA determines otherwise in writing.
 - h. It will extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each Third Party Participant, including any:
 - (1) Subrecipient,
 - (2) Transferee,
 - (3) Third Party Contractor or Subcontractor at any tier,
 - (4) Successor in Interest,
 - (5) Lessee, or

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- (6) Other Participant in its Award, except FTA and the Applicant (and later, the Recipient).
- i. It will include adequate provisions to extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each third party agreement, including each:
 - (1) Subagreement at any tier,
 - (2) Property transfer agreement,
 - (3) Third party contract or subcontract at any tier,
 - (4) Lease, or
 - (5) Participation agreement.
- j. The assurances you have made on your Applicant's behalf remain in effect as long as FTA determines appropriate, including, for example, as long as:
 - (1) Federal assistance is provided for its Award,
 - (2) Its property acquired or improved with federal assistance is used for a purpose for which the federal assistance is extended, or for a purpose involving similar services or benefits,
 - (3) It retains ownership or possession of its property acquired or improved with federal assistance provided for its Award, or
 - (4) FTA may otherwise determine in writing.
- 4. As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR part 27, specifically 49 CFR § 27.9, and consistent with 49 U.S.C. § 5332, you assure that:
 - a. It will comply with the following prohibitions against discrimination on the basis of disability listed below in subsection 4.b of this Category 01.D Assurance, of which compliance is a condition of approval or extension of any FTA assistance awarded to:
 - (1) Construct any facility,
 - (2) Obtain any rolling stock or other equipment,
 - (3) Undertake studies,
 - (4) Conduct research, or
 - (5) Participate in any benefit or obtain any benefit from any FTA administered program.
 - b. In any program or activity receiving or benefiting from federal assistance that U.S. DOT administers, no qualified individual with a disability will, because of his or her disability, be:
 - (1) Excluded from participation,
 - (2) Denied benefits, or
 - (3) Otherwise subjected to discrimination.

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01.E. Suspension and Debarment Certification.

On behalf of your Applicant, you certify that:

1. It will comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR 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 CFR part 180.
2. To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
 - a. Are eligible to participate in covered transactions of any federal department or agency and are not presently:
 - (1) Debarred,
 - (2) Suspended,
 - (3) Proposed for debarment,
 - (4) Declared ineligible,
 - (5) Voluntarily excluded, or
 - (6) Disqualified.
 - b. Within a three-year period preceding its latest application or proposal, its management has not been convicted of or had a civil judgment rendered against any of them for:
 - (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction, or contract under a public transaction,
 - (2) Violation of any federal or state antitrust statute, or
 - (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property.
 - c. It is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification.
 - d. It has not had one or more public transactions (federal, state, or local) terminated for cause or default within a three-year period preceding this Certification.
 - e. If, at a later time, it receives any information that contradicts the preceding statements of subsections 2.a – 2.d of this Category 01.E Certification, it will promptly provide that information to FTA.
 - f. It will treat each lower tier contract or subcontract under its Award as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
 - (1) Equals or exceeds \$25,000,
 - (2) Is for audit services, or
 - (3) Requires the consent of a federal official.

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- g. It will require that each covered lower tier contractor and subcontractor:
 - (1) Comply and facilitate compliance with the federal requirements of 2 CFR parts 180 and 1200, and
 - (2) Assure that each lower tier participant in its Award is 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, or
 - (f) Disqualified from participation in any federally assisted Award.
- 5. It will provide a written explanation if it or any of its principals, including any of its first tier Subrecipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Category 01.E Certification.

01.F. U.S. OMB Assurances in SF-424B and SF-424D.

The assurances in this Category 01.F are consistent with the U.S. OMB assurances required in the U.S. OMB SF-424B and SF-424D, and updated as necessary to reflect changes in federal laws, regulations, and requirements.

- 1. *Administrative Activities.* On behalf of your Applicant, you assure that:
 - a. For any application it submits for federal assistance, it has adequate resources to plan, manage, and complete properly the tasks to implement its Award, including:
 - (1) The legal authority to apply for federal assistance,
 - (2) The institutional capability,
 - (3) The managerial capability, and
 - (4) The financial capability (including funds sufficient to pay the non-federal share of the cost of incurred under its Award).
 - b. As required, it will give access and the right to examine materials related to its Award to the following entities or individuals, including, but not limited to:
 - (1) FTA,
 - (2) The Comptroller General of the United States, and
 - (3) The State, through an appropriate authorized representative.
 - c. It will establish a proper accounting system in accordance with generally accepted accounting standards or FTA guidance.
 - d. It will establish safeguards to prohibit employees from using their positions for a purpose that results in:
 - (1) A personal or organizational conflict of interest or personal gain, or

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- (2) An appearance of a personal or organizational conflict of interest or personal gain.
2. *Specifics of the Award.* On behalf of your Applicant, you assure that:
 - a. It will begin and complete work within the period of performance that applies following receipt of an FTA Award.
 - b. For FTA assisted construction Awards:
 - (1) It will comply with FTA provisions concerning the drafting, review, and approval of construction plans and specifications,
 - (2) It will provide and maintain competent and adequate engineering supervision at the construction site to assure that the completed work conforms to the approved plans and specifications,
 - (3) It will include a covenant to assure nondiscrimination during the useful life of the real property financed under its Award in its title to that real property,
 - (4) To the extent FTA requires, it will record the federal interest in the title to FTA assisted real property or interests in real property, and
 - (5) It will not alter the site of the FTA assisted construction or facilities without permission or instructions from FTA by:
 - (a) Disposing of the underlying real property or other interest in the site and facilities,
 - (b) Modifying the use of the underlying real property or other interest in the site and facilities, or
 - (c) Changing the terms of the underlying real property title or other interest in the site and facilities.
 - c. It will furnish progress reports and other information as FTA or the state may require.
3. *Statutory and Regulatory requirements.* On behalf of your Applicant, you assure that:
 - a. It will comply with all federal laws, regulations, and requirements relating to nondiscrimination that apply, including, but not limited to:
 - (1) The prohibitions against discrimination on the basis of race, color, or national origin, as provided in Title VI of the Civil Rights Act, 42 U.S.C. § 2000d.
 - (2) The prohibitions against discrimination on the basis of sex, as provided in:
 - (a) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 – 1683, and 1685 – 1687, and
 - (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR part 25.
 - (3) The prohibitions against discrimination on the basis of age in federally assisted programs, as provided in the Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 – 6107.
 - (4) The prohibitions against discrimination on the basis of disability in federally assisted programs, as provided in section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794.

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- (5) The prohibitions against discrimination on the basis of disability, as provided in the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*
 - (6) The prohibitions against discrimination in the sale, rental, or financing of housing, as provided in Title VIII of the Civil Rights Act, 42 U.S.C. § 3601 *et seq.*
 - (7) The prohibitions against discrimination on the basis of drug abuse, as provided in the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 *et seq.*
 - (8) The prohibitions against discrimination on the basis of alcohol abuse, as provided in the Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, as amended, 42 U.S.C. § 4541 *et seq.*
 - (9) The confidentiality requirements for records of alcohol and drug abuse patients, as provided in the Public Health Service Act, as amended, 42 U.S.C. § 290dd – 290dd-2.
 - (10) The nondiscrimination provisions of any other statute(s) that may apply to its Award.
- b. As provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Relocation Act), 42 U.S.C. § 4601 *et seq.*, and 49 U.S.C. § 5323(b), regardless of whether federal assistance has been provided for any real property acquired or improved for purposes of its Award:
- (1) It will provide for fair and equitable treatment of any displaced persons or any persons whose property is acquired or improved as a result of federally assisted programs.
 - (2) It has the necessary legal authority under state and local laws, regulations, and requirements to comply with:
 - (a) The Uniform Relocation Act. 42 U.S.C. § 4601 *et seq.*, as specified by 42 U.S.C. §§ 4630 and 4655, and
 - (b) U.S. DOT regulations, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,” 49 CFR part 24, specifically 49 CFR § 24.4.
 - (3) It has complied with or will comply with the Uniform Relocation Act and implementing U.S. DOT regulations because:
 - (a) It will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24.
 - (b) As provided by 42 U.S.C. §§ 4622, 4623, and 4624, and 49 CFR part 24, if its Award results in displacement, it will provide fair and reasonable relocation payments and assistance to:
 - 1 Displaced families or individuals, and
 - 2 Displaced corporations, associations, or partnerships.

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- (c) As provided by 42 U.S.C. § 4625 and 49 CFR part 24, it will provide relocation assistance programs offering the services described in the U.S. DOT regulations to such:
 - 1 Displaced families and individuals, and
 - 2 Displaced corporations, associations, or partnerships.
 - (d) As provided by 42 U.S.C. § 4625(c)(3), within a reasonable time before displacement, it will make available comparable replacement dwellings to families and individuals.
 - (e) It will:
 - 1 Carry out the relocation process to provide displaced persons with uniform and consistent services, and
 - 2 Make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin.
 - (f) It will be guided by the real property acquisition policies of 42 U.S.C. §§ 4651 and 4652.
 - (g) It will pay or reimburse property owners for their necessary expenses as specified in 42 U.S.C. §§ 4653 and 4654, understanding that FTA will provide federal assistance for its eligible costs of providing payments for those expenses, as required by 42 U.S.C. § 4631.
 - (h) It will execute the necessary implementing amendments to FTA assisted third party contracts and subagreements.
 - (i) It will execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement these assurances.
 - (j) It will incorporate these assurances by reference into and make them a part of any third party contract or subagreement, or any amendments thereto, related to its Award that involves relocation or land acquisition.
 - (k) It will provide in any affected document that these relocation and land acquisition provisions must supersede any conflicting provisions.
- c. It will comply with the Lead-Based Paint Poisoning Prevention Act, specifically 42 U.S.C. § 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures.
 - d. It will, to the extent applicable, comply with the protections for human subjects involved in research, development, and related activities supported by federal assistance of:
 - (1) The National Research Act, as amended, 42 U.S.C. § 289 *et seq.*, and
 - (2) U.S. DOT regulations, “Protection of Human Subjects,” 49 CFR part 11.
 - e. It will, to the extent applicable, comply with the labor standards and protections for federally assisted Awards of:
 - (1) The Davis-Bacon Act, as amended, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147,

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- (2) Sections 1 and 2 of the Copeland “Anti-Kickback” Act, as amended, 18 U.S.C. § 874, and 40 U.S.C. § 3145, respectively, and
 - (3) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3701 *et seq.*
- f. It will comply with any applicable environmental standards prescribed to implement federal laws and executive orders, including, but not limited to:
- (1) Complying with the institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 – 4335 and following Executive Order No. 11514, as amended, 42 U.S.C. § 4321 note.
 - (2) Following the notification of violating facilities provisions of Executive Order No. 11738, 42 U.S.C. § 7606 note.
 - (3) Following the protection of wetlands provisions of Executive Order No. 11990, 42 U.S.C. § 4321 note.
 - (4) Following the evaluation of flood hazards in the floodplains provisions of Executive Order No. 11988, May 24, 1977, 42 U.S.C. § 4321 note, and Executive Order No. 13690 “Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input, January 30, 2015.
 - (5) Complying with the assurance of consistency with the approved state management program developed pursuant to the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. §§ 1451 – 1465.
 - (6) Complying with the Conformity of Federal Actions to State (Clean Air) Implementation Plans requirements under section 176(c) of the Clean Air Act of 1970, as amended, 42 U.S.C. §§ 7401 – 7671q.
 - (7) Complying with protections for underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. § 300f – 300j-6.
 - (8) Complying with the protections for endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 – 1544.
 - (9) Complying with the environmental protections for federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, state, or local significance or any land from a historic site of national, state, or local significance to be used in a transportation Award, as required by 49 U.S.C. § 303 (also known as “Section 4f”).
 - (10) Complying with the protections for national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. §§ 1271 – 1287.
 - (11) Complying with and facilitating compliance with:
 - (a) Section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. § 300108,

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- (b) The Archaeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501 *et seq.*, and
 - (c) Executive Order No. 11593 (identification and protection of historic properties), 54 U.S.C. § 300101.
- g. To the extent applicable, it will comply with the following federal requirements for the care, handling, and treatment of warm-blooded animals held or used for research, teaching, or other activities supported with federal assistance:
 - (1) The Animal Welfare Act, as amended, 7 U.S.C. § 2131 *et seq.*, and
 - (2) U.S. Department of Agriculture regulations, “Animal Welfare,” 9 CFR subchapter A, parts 1, 2, 3, and 4.
- h. To the extent applicable, it will obtain a certificate of compliance with the seismic design and construction requirements of U.S. DOT regulations, “Seismic Safety,” 49 CFR part 41, specifically 49 CFR § 41.117(d), before accepting delivery of any FTA assisted buildings.
- i. It will comply with and assure that each of its Subrecipients located in special flood hazard areas will comply with section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. § 4012a(a), by:
 - (1) Participating in the federal flood insurance program, and
 - (2) Purchasing flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- j. It will comply with:
 - (1) The Hatch Act, 5 U.S.C. §§ 1501 – 1508, 7324 – 7326, which limits the political activities of state and local agencies and their officers and employees whose primary employment activities are financed in whole or part with federal assistance, including a federal loan, grant agreement, or cooperative agreement, and
 - (2) 49 U.S.C. § 5323(1)(2) and 23 U.S.C. § 142(g), which provide an exception from Hatch Act restrictions for a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving federal assistance appropriated or made available under 49 U.S.C. chapter 53 and 23 U.S.C. § 142(a)(2) to whom the Hatch Act does not otherwise apply.
- k. It will perform the financial and compliance audits as required by the:
 - (1) Single Audit Act Amendments of 1996, 31 U.S.C. § 7501 *et seq.*,
 - (2) U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR part 1201, which incorporates by reference U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR part 200, and
 - (3) Most recent applicable U.S. OMB Compliance Supplement, 2 CFR part 200, appendix XI (previously known as the U.S. OMB Circular A-133 Compliance Supplement).

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- l. It will comply with all other federal laws, regulations, and requirements that apply.
- m. It will follow federal guidance governing it and its Award, except as FTA has expressly approved otherwise in writing.

CATEGORY 02. LOBBYING.

Before FTA may provide federal assistance for a grant or cooperative agreement exceeding \$100,000 or a loan, line of credit, loan guarantee, or loan insurance exceeding \$150,000, unless your Applicant is an Indian Tribe, Indian organization, or an Indian tribal organization exempt from the requirements of 31 U.S.C. § 1352, you must select the Lobbying Certifications in Category 02 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 02 that does not apply will not be enforced.

On behalf of your Applicant, you certify that:

1. As required by 31 U.S.C. § 1352 and U.S. DOT regulations, "New Restrictions on Lobbying," specifically 49 CFR 20.110:
 - a. The lobbying restrictions of this Certification apply to its requests:
 - (1) For \$100,000 or more in federal assistance for a grant or cooperative agreement, and
 - (2) For \$150,000 or more in federal assistance for a loan, line of credit, loan guarantee, or loan insurance, and
 - b. Your Certification on its behalf applies to the lobbying activities of:
 - (1) It,
 - (2) Its Principals, and
 - (3) Its Subrecipients at the first tier.
2. To the best of your knowledge and belief:
 - a. No federal appropriated funds have been or will be paid by your Applicant or on its behalf to any person to influence or attempt to influence:
 - (1) An officer or employee of any federal agency regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance, or
 - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance.
 - b. It will submit a complete OMB Standard Form LLL (Rev. 7-97), "Disclosure of Lobbying Activities," consistent with the instructions on that form, if any funds

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other than federal appropriated funds have been or will be paid to any person to influence or attempt to influence:

- (1) An officer or employee of any federal agency regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance, or
- (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance.
- c. It will include the language of this Certification in its Award documents under a federal grant, cooperative agreement, loan, line of credit, or loan insurance including, but not limited to:
 - (1) Each third party contract,
 - (2) Each third party subcontract,
 - (3) Each subagreement, and
 - (4) Each third party agreement.
3. It understands that:
 - a. This Certification is a material representation of fact that the Federal Government relies on, and
 - b. It must submit this Certification before the Federal Government may award federal assistance for a transaction covered by 31 U.S.C. § 1352, including a:
 - (1) Federal grant or cooperative agreement, or
 - (2) Federal loan, line of credit, loan guarantee, or loan insurance.
4. It understands that any person who does not file a required Certification will incur a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CATEGORY 03. PROCUREMENT AND PROCUREMENT SYSTEMS.

We request that you select the Procurement and Procurement Systems Certification in Category 03 on behalf of your Applicant, especially if your Applicant is a state, local, or Indian tribal government with a certified procurement system, as provided in 2 CFR § 200.324(c)(2), incorporated by reference in 2 CFR part 1201 or former 49 CFR 18.36(g)(3)(ii).

Any provision of the Certification in Category 03 that does not apply will not be enforced.

On behalf of your Applicant, you certify that its procurements and its procurement system will comply with all federal laws, regulations, and requirements in accordance with applicable federal guidance, except as FTA has approved otherwise in writing.

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CATEGORY 04. PRIVATE SECTOR PROTECTIONS.

Before FTA may provide federal assistance for an Award that involves the acquisition of public transportation property or the operation of public transportation facilities or equipment, you must select the Private Property Protections Assurances in Category 04.A and enter into the Agreements in Category 04.B and Category 04.C on behalf of your Applicant in addition to other Certifications you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Assurances and Agreements in Category 04 that does not apply will not be enforced.

04.A. Private Property Protections.

If your Applicant is a state, local government, or Indian tribal government and seeks federal assistance from FTA to acquire the property of a private transit operator or operate public transportation in competition with or in addition to a public transportation operator, the Private Property Protections Assurances in Category 04.A apply to your Applicant, except as FTA determines otherwise in writing.

To facilitate FTA's ability to make the findings required by 49 U.S.C. § 5323(a)(1), on behalf of your Applicant, you assure that:

1. It has or will have:
 - a. Determined that the federal assistance it has requested is essential to carrying out its Program of Projects as required by 49 U.S.C. §§ 5303, 5304, and 5306,
 - b. Provided for the participation of private companies engaged in public transportation to the maximum extent feasible, and
 - c. Paid just compensation under state or local laws to the company for any franchise or property acquired.
2. It has completed the actions described in the preceding section 1 of this Category 04.A Certification before:
 - a. It acquires the property or an interest in the property of a private provider of public transportation, or
 - b. It operates public transportation equipment or facilities:
 - (1) In competition with transportation service provided by an existing public transportation operator, or
 - (2) In addition to transportation service provided by an existing public transportation operator.

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04.B. Charter Service Agreement.

If your Applicant seeks federal assistance from FTA to acquire or operate transit facilities or equipment, the Charter Service Agreement in Category 04.B applies to your Applicant, except as FTA determines otherwise in writing.

To comply with 49 U.S.C. § 5323(d) and (g) and FTA regulations, “Charter Service,” 49 CFR part 604, specifically 49 CFR § 604.4, on behalf of your Applicant, you are entering into the following Charter Service Agreement:

1. FTA’s “Charter Service” regulations apply as follows:
 - a. FTA’s Charter Service regulations restrict transportation by charter service using facilities and equipment acquired or improved under its Award from FTA financed with federal assistance derived from:
 - (1) Federal transit laws, 49 U.S.C. chapter 53,
 - (2) 23 U.S.C. §§ 133 or 142, or
 - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
 - b. FTA’s charter service restrictions extend to:
 - (1) Your Applicant, when it becomes a Recipient of federal assistance appropriated or made available for:
 - (a) Federal transit laws, 49 U.S.C. chapter 53,
 - (b) 23 U.S.C. §§ 133 or 142, or
 - (c) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
 - (2) Any Third Party Participant that receives federal assistance derived from:
 - (a) Federal transit laws, 49 U.S.C. chapter 53,
 - (b) 23 U.S.C. §§ 133 or 142, or
 - (c) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
 - c. A Third Party Participant includes any:
 - (1) Subrecipient at any tier,
 - (2) Lessee,
 - (3) Third Party Contractor or Subcontractor at any tier, and
 - (4) Other Third Party Participant in its Award.
 - d. You and your Applicant agree that neither it nor any governmental authority or publicly owned operator that receives federal public transportation assistance appropriated or made available for its Award will engage in charter service operations, except as permitted under:
 - (1) Federal transit laws, specifically 49 U.S.C. § 5323(d) and (g),
 - (2) FTA regulations, “Charter Service,” 49 CFR part 604, to the extent consistent with 49 U.S.C. § 5323(d) and (g),
 - (3) Any other federal Charter Service regulations, or

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- (4) Federal guidance, except as FTA determines otherwise in writing.
- e. You and your Applicant agree that the latest Charter Service Agreement selected in its latest annual Certifications and Assurances is incorporated by reference in and made part of the Underlying Agreement accompanying its Award of federal assistance from FTA.
- f. You and your Applicant agree that:
 - (1) FTA may require corrective measures or impose remedies on it or any governmental authority or publicly owned operator that receives federal assistance from FTA appropriated or made available for its Award that has engaged in a pattern of violations of FTA's Charter Service regulations by:
 - (a) Conducting charter operations prohibited by federal transit laws and FTA's Charter Service regulations, or
 - (b) Otherwise violating its Charter Service Agreement selected in its latest annual Certifications and Assurances, and
 - (2) These corrective measures and remedies may include:
 - (a) Barring it or any Third Party Participant operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA,
 - (b) Withholding an amount of federal assistance as provided by Appendix D to FTA's Charter Service regulations, or
 - (c) Any other appropriate remedy that may apply.
- 2. In addition to the exceptions to the restrictions in FTA's Charter Service regulations, FTA has established the following additional exceptions to those restrictions:
 - a. FTA's Charter Service restrictions do not apply to your Applicant if it seeks federal assistance appropriated or made available under 49 U.S.C. §§ 5307 or 5311 to be used for Job Access and Reverse Commute (JARC) activities that would have been eligible for assistance under former 49 U.S.C. §§ 5316 in effect in FY 2012 or a previous fiscal year, provided that it uses that federal assistance from FTA for those program purposes only.
 - b. FTA's Charter Service restrictions do not apply to your Applicant if it seeks federal assistance appropriated or made available under 49 U.S.C. § 5310 to be used for New Freedom activities that would have been eligible for assistance under former 49 U.S.C. § 5317 in effect in FY 2012 or a previous fiscal year, provided it uses that federal assistance from FTA for those program purposes only.
 - c. An Applicant for assistance under 49 U.S.C. chapter 53 will not be determined to have violated the FTA Charter Service regulations if that Recipient provides a private intercity or charter transportation operator reasonable access to that Recipient's federally assisted public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes, as provided in 49 U.S.C. § 5323(r).

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04.C. School Bus Agreement.

If your Applicant seeks federal assistance from FTA to acquire or operate transit facilities or equipment, the School Bus Agreement in Category 04.C applies to your Applicant, except as FTA determines otherwise in writing.

To comply with 49 U.S.C. § 5323(f) and (g) and FTA regulations, “School Bus Operations,” 49 CFR part 605, to the extent consistent with 49 U.S.C. § 5323(f) and (g), on behalf of your Applicant, you are entering into the following School Bus Agreement:

1. FTA’s “School Bus Operations” regulations restrict school bus operations using facilities and equipment acquired or improved with federal assistance derived from:
 - a. Federal transit laws, 49 U.S.C. chapter 53,
 - b. 23 U.S.C. §§ 133 or 142, or
 - c. Any other Act that provides federal public transportation assistance, unless otherwise excepted.
2. FTA’s school bus operations restrictions extend to:
 - a. Your Applicant, when it becomes a Recipient of federal assistance appropriated or made available for:
 - (1) Federal transit laws, 49 U.S.C. chapter 53,
 - (2) 23 U.S.C. §§ 133 or 142, or
 - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
 - b. Any Third Party Participant that receives federal assistance derived from:
 - (1) Federal transit laws, 49 U.S.C. chapter 53,
 - (2) 23 U.S.C. §§ 133 or 142, or
 - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
3. A Third Party Participant includes any:
 - a. Subrecipient at any tier,
 - b. Lessee,
 - c. Third Party Contractor or Subcontractor at any tier, and
 - d. Other Third Party Participant in its Award.
4. You and your Applicant agree and will obtain the agreement of any Third Party Participant involved in your Applicant’s Award that it will not engage in school bus operations in competition with private operators of school buses, except as permitted under:
 - a. Federal transit laws, specifically 49 U.S.C. § 5323(f) and (g),
 - b. FTA regulations, “School Bus Operations,” 49 CFR part 605, to the extent consistent with 49 U.S.C. § 5323(f) and (g),
 - c. Any other federal School Bus regulations, or
 - d. Federal guidance, except as FTA determines otherwise in writing.

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5. You and your Applicant agree that the latest School Bus Agreement selected on its behalf in FTA's latest annual Certifications and Assurances is incorporated by reference in and made part of the Underlying Agreement accompanying its Award of federal assistance.
6. You and your Applicant agree that after it is a Recipient, if it or any Third Party Participant has violated this School Bus Agreement, FTA may:
 - a. Bar your Applicant or Third Party Participant from receiving further federal assistance for public transportation, or
 - b. Require the Applicant or Third Party Participant to take such remedial measures as FTA considers appropriate.

CATEGORY 05. ROLLING STOCK REVIEWS AND BUS TESTING.

Before FTA may provide federal assistance for an Award to acquire rolling stock for use in revenue service or to acquire a new bus model, you must select the Rolling Stock Reviews and Bus Testing Certifications in Category 05 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 05 that does not apply will not be enforced.

05.A. Rolling Stock Reviews.

If your Applicant seeks federal assistance from FTA to acquire rolling stock for use in revenue service, the Rolling Stock Reviews Certifications in Category 05.A apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that when procuring rolling stock for use in revenue service:

1. It will comply with:
 - a. Federal transit laws, specifically 49 U.S.C. § 5323(m), and
 - b. FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR part 663, and
2. As provided in 49 CFR § 663.7:
 - a. It will conduct or cause to be conducted the required pre-award and post-delivery reviews of that rolling stock, and
 - b. It will maintain on file the Certifications required by 49 CFR part 663, subparts B, C, and D.

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05.B. Bus Testing.

If your Applicant seeks federal assistance from FTA to acquire a new bus model, the Bus Testing Certifications in Category 05.B apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that:

1. FTA's bus testing requirements apply to all acquisitions of new buses and new bus models that require bus testing as defined in FTA's Bus Testing regulations, and it will comply with:
 - a. 49 U.S.C. § 5318, and
 - b. FTA regulations, "Bus Testing," 49 CFR part 665, to the extent these regulations are consistent with 49 U.S.C. § 5318.
2. As required by 49 CFR § 665.7, when acquiring the first bus of any new bus model or a bus model with a major change in components or configuration:
 - a. It will not spend any federal assistance appropriated under 49 U.S.C. chapter 53 to acquire that new bus or new bus model until:
 - (1) That new bus or new bus model has been tested at FTA's bus testing facility, and
 - (2) It has received a copy of the test report prepared for that new bus or new bus model, and
 - b. It will not authorize final acceptance of that new bus or new bus model until:
 - (1) That new bus or new bus model has been tested at FTA's bus testing facility, and
 - (2) It has received a copy of the test report prepared for that new bus or new bus model.
3. It will ensure that the new bus or new bus model that is tested has met the performance standards consistent with those regulations, including the:
 - a. Performance standards for:
 - (1) Maintainability,
 - (2) Reliability,
 - (3) Performance (including braking performance),
 - (4) Structural integrity,
 - (5) Fuel economy,
 - (6) Emissions, and
 - (7) Noise, and
 - b. Minimum safety performance standards established under 49 U.S.C. § 5329.
4. After FTA regulations authorized by 49 U.S.C. § 5318(e)(2) are in effect, it will ensure that the new bus or new bus model that is tested has received a passing aggregate test score under the "Pass/Fail" standard established by regulation.

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CATEGORY 06. DEMAND RESPONSIVE SERVICE.

Before FTA may provide federal assistance for an Award to a public entity that operates demand responsive service to acquire a non-rail vehicle that is not accessible, you must select the Demand Responsive Service Certifications in Category 06 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 06 that does not apply will not be enforced.

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR part 37, specifically 49 CFR § 37.77(d), on behalf of your Applicant, you certify that:

1. Your Applicant offers public transportation services equivalent in level and quality of service to:
 - a. Individuals with disabilities, including individuals who use wheelchairs, and
 - b. Individuals without disabilities.
2. Viewed in its entirety, its service for individuals with disabilities is:
 - a. Provided in the most integrated setting feasible, and
 - b. Equivalent to the service it offers individuals without disabilities with respect to:
 - (1) Response time,
 - (2) Fares,
 - (3) Geographic service area,
 - (4) Hours and days of service,
 - (5) Restrictions on priorities based on trip purpose,
 - (6) Availability of information and reservation capability, and
 - (7) Constraints on capacity or service availability.

CATEGORY 07. INTELLIGENT TRANSPORTATION SYSTEMS.

Before FTA may provide federal assistance for an Award in support of an Intelligent Transportation System (ITS), you must select the Intelligent Transportation Systems Assurances in Category 07 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Assurances in Category 07 that does not apply will not be enforced.

On behalf of your Applicant, you and your Applicant:

1. Understand that, as used in this Assurance, the term Intelligent Transportation System is defined to include technologies or systems of technologies that provide or

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- significantly contribute to the provision of one or more Intelligent Transportation System (ITS) user services as defined in the “National ITS Architecture.”
2. Assure that, as provided in 23 U.S.C. § 517(d), any Award that includes an ITS or related activity financed with appropriations made available from the Highway Trust Fund, including amounts made available to deploy ITS facilities or equipment, will conform to the appropriate regional ITS architecture, applicable standards, and protocols developed under 23 U.S.C. § 517(a) or (c), unless it obtains a waiver as provided in 23 U.S.C. § 517(d)(2).

CATEGORY 08. INTEREST AND FINANCING COSTS AND ACQUISITION OF CAPITAL ASSETS BY LEASE.

Before FTA may award federal assistance appropriated or made available under 49 U.S.C. chapter 53 to support the interest, financing, or leasing costs of any Award financed under the Urbanized Area Formula Grants Program, Fixed Guideway Capital Investment Grants Program, any program to which the requirements of 49 U.S.C. § 5307 apply, or any other program as FTA may specify, you must select the Certifications in Category 08 in addition to other Certifications and Assurances you must select on your Applicant’s behalf, except as FTA may determine otherwise in writing.

Any provision of the Certifications and Assurances in Category 08 that does not apply will not be enforced.

08.A. Interest and Financing Costs.

If your Applicant intends to use federal assistance to support the interest or any other financing costs for an Award financed under the Urbanized Area Formula Grants Program, the Fixed Guideway Capital Investment Grants Program, the New Starts, Small Starts, and Core Capacity Programs, any program that must comply with the requirements of 49 U.S.C. § 5307, or any other program as FTA may specify, the Interest and Financing Costs Certifications in Category 08.A apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that:

1. It will not seek reimbursement for interest or any other financing costs unless:
 - a. It is eligible to receive federal assistance for those costs, and
 - b. Its records demonstrate that it has shown reasonable diligence in seeking the most favorable financing terms, as FTA may require.
2. It will comply with the same favorable financing cost provisions for Awards financed under:
 - a. The Urbanized Area Formula Grants Program,
 - b. A Full Funding Grant Agreement,

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- c. An Early Systems Work Agreement,
- d. The Fixed Guideway Capital Investment Program financed by previous FTA enabling legislation,
- e. Any program that must comply with the requirements of 49 U.S.C. § 5307, or
- f. Any other program as FTA may specify.

08.B. Acquisition of Capital Assets by Lease.

If your Applicant seeks federal assistance from FTA to acquire capital assets (other than rolling stock or related equipment) through a lease, the Acquisition of Capital Assets by Lease Certifications and Assurances in Category 08.B applies to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify and assure that, as required by FTA regulations, “Capital Leases,” 49 CFR part 639, to the extent consistent with the FAST Act, if your Applicant acquires any capital asset (other than rolling stock or related equipment) through a lease financed with federal assistance appropriated or made available under 49 U.S.C. chapter 53, it will not enter into a capital lease for which FTA can provide only incremental federal assistance unless it has adequate financial resources to meet its future lease obligations if federal assistance is not available.

CATEGORY 09. TRANSIT ASSET MANAGEMENT PLAN AND PUBLIC TRANSPORTATION AGENCY SAFETY PLAN.

Before FTA may provide federal assistance appropriated or made available under 49 U.S.C. chapter 53 to support an Award, you must select the Certifications in Category 09 in addition to other Certifications and Assurances you must select on your Applicant’s behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 09 that does not apply will not be enforced.

09.A. Transit Asset Management Plan.

If your Applicant applies for funding appropriated or made available for 49 U.S.C. chapter 53, the Transit Asset Management Certifications in Group 09.A apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that it and each of its Subrecipients will:

1. Follow federal guidance that, when issued, will implement the transit asset management system provisions of 49 U.S.C. § 5326, except as FTA determines otherwise in writing, and

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2. Comply with the final federal regulations that, when issued, will implement the transit asset management provisions of 49 U.S.C. § 5326.

09.B. Public Transportation Agency Safety Plan.

If your Applicant applies for funding under 49 U.S.C. chapter 53 and it is a State government, local government, or any other operator of a public transportation system, the Public Transportation Safety Plan Certifications in Group 09.B apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that it will:

1. Follow the Federal guidance, when issued, that will implement the safety plan provisions of 49 U.S.C. § 5329(d), except as FTA determines otherwise in writing, and
2. Comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. § 5329(d).

CATEGORY 10. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

If your Applicant must comply with the alcohol and controlled substance testing requirements of 49 U.S.C. § 5331 and its implementing regulations, before FTA may provide federal assistance for an Award, you must select the Certifications in Category 10 in addition to other Certifications and Assurances you select on your Applicant's behalf, except as FTA may determine otherwise in writing.

Any provision of the Certifications in Category 10 that does not apply will not be enforced.

As required by 49 U.S.C. § 5331, and FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655, subpart I, specifically 49 CFR § 655.83, on behalf of your Applicant, including an Applicant that is a state, and on behalf of its Subrecipients and Third Party Contractors, you certify that:

1. Your Applicant, its Subrecipients, and Third Party Contractors to which these testing requirements apply have established and implemented:
 - a. An alcohol misuse testing program, and
 - b. A controlled substance testing program.
2. Your Applicant, its Subrecipients, and its Third Party Contractors to which these testing requirements apply have complied or will comply with all applicable requirements of 49 CFR part 655 to the extent those regulations are consistent with 49 U.S.C. § 5331.
3. Consistent with U.S. DOT Office of Drug and Alcohol Policy and Compliance Notice, issued October 22, 2009, if your Applicant, its Subrecipients, or its Third

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Party Contractors to which these testing requirements apply reside in a state that permits marijuana use for medical or recreational purposes, your Applicant, its Subrecipients, and its Third Party Contractors to which these testing requirements apply have complied or will comply with the federal controlled substance testing requirements of 49 CFR part 655.

CATEGORY 11. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS PROGRAM (NEW STARTS, SMALL STARTS, AND CORE CAPACITY IMPROVEMENT).

Before FTA may provide federal assistance for an Award financed under the New Starts, Small Starts, or Core Capacity Improvement Program authorized under 49 U.S.C. § 5309, you must select the Certifications in Category 11 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA may determine otherwise in writing.

Any provision of the Certifications in Category 11 that does not apply will not be enforced.

Except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award,
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with its transit asset management plan,
4. It will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304, and
5. It will comply with FTA guidance, "Final Interim Policy Guidance, Capital Investment Grant Program," August 2015, 80 *Fed. Reg.* 46514, August 5, 2015,

CATEGORY 12. STATE OF GOOD REPAIR PROGRAM.

Before FTA may provide federal assistance for an Award financed under the State of Good Repair Program authorized under 49 U.S.C. § 5337, you must select the Certifications in Category 12 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Assurance in Category 12 that does not apply will not be enforced.

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On behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award,
3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan, and
4. It will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.

CATEGORY 13. GRANTS FOR BUSES AND BUS FACILITIES AND LOW OR NO EMISSION VEHICLE DEPLOYMENT GRANT PROGRAMS

Before FTA may provide federal assistance for an Award under the Buses and Bus Facilities Program authorized under 49 U.S.C. § 5339, as amended by the FAST Act, which among other things authorizes grants for Low or No Emission buses, you must select the Certifications in Category 13 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 13 that does not apply will not be enforced.

13.A. Grants for Buses and Bus Facilities Program The following Certifications for the Grants for Buses and Bus Facilities Program are required by 49 U.S.C. § 5339, as amended by the FAST Act, which provides that the requirements of 49 U.S.C. § 5307 shall apply to recipients of grants made in urbanized areas and the requirements of 49 U.S.C. § 5311 shall apply to recipients of grants made in rural areas under this 49 U.S.C. §§ 5339(a) and (b). Therefore:

1. If your Applicant is in an urbanized area, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
 - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
 - c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan,

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- d. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5339 during non-peak hours for transportation, recipients in an urbanized area will ensure that the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - (1) Any senior,
 - (2) Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
 - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
 - e. When carrying out a procurement under 49 U.S.C. § 5339, it will comply with:
 - (1) The applicable general provisions of 49 U.S.C. § 5323, and
 - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.
 - f. It has complied with or will comply with 49 U.S.C. § 5307(b).
 - g. As required by 49 U.S.C. § 5307(d):
 - (1) It has or will have the amount of funds required for the non-federal share,
 - (2) It will provide the non-federal share from sources approved by FTA, and
 - (3) It will provide the non-federal share when needed.
 - h. It will comply with:
 - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - (2) The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
 - i. It has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation service.
 - j. It will comply with the final federal regulations that, when issued, will implement the safety plan requirements of 49 U.S.C. § 5329(d).
2. If your Applicant is in a rural area, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
- a. It has or will have and require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have and require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.

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- c. It will maintain and require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan.
- d. Its state program has provided for a fair distribution of federal assistance appropriated or made available under 49 U.S.C. § 5311(b) within the state to eligible entities, including Indian reservations.
- e. Its program provides or will provide the maximum feasible coordination of federal assistance for public transportation service with transportation service financed by other federal sources.
- f. Its Awards and Subawards in its Formula Grants for Rural Areas Program are included in:
 - (1) The statewide transportation improvement program, and
 - (2) To the extent applicable, a metropolitan transportation improvement program.
- g. With respect to the non-federal share:
 - (1) It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by 49 U.S.C. § 5311(g) ,
 - (2) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and
 - (3) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.
- h. It may transfer a facility or equipment acquired or improved under its Award to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
 - a. The Recipient possessing the facility or equipment consents to the transfer, and
 - b. The facility or equipment will continue to be used as required under 49 U.S.C. § 5311.

13.B. Low or No Emission Vehicle Deployment.

If your Applicant seeks federal assistance from FTA for an Award financed under the Low or No Emission Vehicle Development Program authorized under former 49 U.S.C. § 5312(d)(5), the Certifications and Assurances in Category 13.B apply to your Applicant, except as FTA determines otherwise in writing.

Former section 5312(d)(5)(C)(i) of title 49, United States Code, requires the following Certifications for Low or No Emission Vehicle Deployment Program before awarding federal assistance appropriated or made available under MAP-21. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify and assure that:

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1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award.
4. When using or involving a facility or equipment acquired or improved with federal assistance under former 49 U.S.C. § 5312(d)(5) during non-peak hours for transportation, it will ensure that the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, a congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or who has semi-ambulatory capability) and is unable to use a public transportation service or a public transportation facility effectively without special facilities, special planning, or special design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
5. When carrying out a procurement under this Program, it will comply with:
 - a. The applicable general provisions of 49 U.S.C. § 5323, and
 - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. It has complied with or will comply with 49 U.S.C. § 5307(b) because:
 - a. It has informed or will inform the public of the amounts of its federal assistance available under this Program,
 - b. It has developed or will develop, in consultation with interested parties including private transportation providers, its proposed Program of Projects for activities to be financed,
 - c. It has published or will publish its proposed Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Projects and its performance as an Applicant,
 - d. It has provided or will provide an opportunity for a public hearing to obtain the views of individuals on its proposed Program of Projects,
 - e. It has assured or will assure that its proposed Program of Projects provides for coordination of public transportation services assisted under 49 U.S.C. § 5336, as amended by the FAST Act, with federally assisted transportation services supported by other federal sources,
 - f. It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and
 - g. It has made or will make the final list of Projects for which an Award is sought available to the public.

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7. With respect to the non-federal share:
 - a. It has or will have the amount of funds required for the non-federal share,
 - b. It will provide the non-federal share from sources approved by FTA, and
 - c. It will provide the non-federal share when needed.
8. It will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
9. It has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation service.
10. It will comply with the final federal regulations that, when issued, will implement the safety plan requirements of 49 U.S.C. § 5329(d).

CATEGORY 14. URBANIZED AREA FORMULA GRANTS PROGRAMS AND PASSENGER FERRY GRANT PROGRAM.

Before FTA may provide federal assistance for an Award financed under the Urbanized Area Formula Grants Program authorized under 49 U.S.C. § 5307, as amended by the FAST Act, which among other things, authorizes federal assistance for Job Access and Reverse Commute (JARC) activities, and the Passenger Ferry Grant Program authorized under 49 U.S.C. § 5307(h), you must select the Certifications in Category 14 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 14 that does not apply will not be enforced.

14.A. Urbanized Area Formula Grants Program under the FAST Act.

If your Applicant seeks federal assistance from FTA for an Award financed under the Urbanized Area Formula Grants Program authorized under 49 U.S.C. § 5307, as amended by the FAST Act, the Certifications in Category 14.A apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications for the Urbanized Area Formula Grants Program under 49 U.S.C. § 5307, as amended by the FAST Act are required by 49 U.S.C. § 5307(c)(1). Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.

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3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan,
4. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5307 during non-peak hours for transportation, it will ensure that the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
5. When carrying out a procurement under 49 U.S.C. § 5307, it will comply with:
 - a. The applicable general provisions of 49 U.S.C. § 5323, and
 - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. It has complied with or will comply with 49 U.S.C. § 5307(b) because:
 - a. It has made or will make available to the public information on the amounts of federal assistance available to it under 49 U.S.C. § 5307,
 - b. It has developed or will develop, in consultation with interested parties including private transportation providers, its proposed Program of Projects for activities for which federal assistance is sought,
 - c. It has published or will publish its proposed Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on its proposed Program of Projects and its performance as an Applicant or Recipient,
 - d. It has provided or will provide an opportunity for a public hearing to obtain the views of individuals on its proposed Program of Projects,
 - e. It has ensured or will ensure that its proposed Program of Projects provides for coordination of transportation services financed by FTA under 49 U.S.C. § 5336, as amended by the FAST Act, with transportation services supported by other Federal Government sources,
 - f. It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
 - g. It has made or will make its final Program of Projects available to the public.
7. As required by 49 U.S.C. § 5307(d):
 - a. It has or will have the amount of funds required for the non-federal share,
 - b. It will provide the non-federal share from sources approved by FTA, and

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- c. It will provide the non-federal share when needed.
- 8. As required by 49 U.S.C. § 5307(c)(1)(H), it will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
- 9. As required by 49 U.S.C. § 5307(c)(1)(I), it has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation.
- 10. Each fiscal year:
 - a. It will assure that at least one (1) percent of the amount of federal assistance under 49 U.S.C. § 5307 apportioned to its urbanized area must be expended for Public Transportation Security activities as described in 49 U.S.C. § 5307(c)(1)(J)(i) including:
 - (1) Increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages),
 - (2) Increased camera surveillance of an area in or adjacent to that system,
 - (3) Emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and
 - (4) Any other activity intended to increase the security and safety of an existing or planned public transportation system, or
 - b. The Designated Recipients in its urbanized area certify that such expenditures for Public Transportation Security activities are not necessary.
- 11. If it serves an urbanized area with a population of at least 200,000 individuals, as determined by the Bureau of the Census:
 - a. It will provide a report by the end of the fourth quarter of the preceding federal fiscal year that lists projects carried out in the preceding fiscal year under this section for associated transit improvements as defined in 49 U.S.C. § 5302, and
 - b. The report of its Associated Transit Improvements or related activities is or will be incorporated by reference and made part of its Certifications and Assurances.
- 12. It will comply with the final federal regulations that, when issued, will implement the safety requirements of 49 U.S.C. § 5329(d).

14.B. Passenger Ferry Grant Program.

If your Applicant seeks federal assistance from FTA for an Award financed under the Passenger Ferry Grant Program authorized under 49 U.S.C. § 5307(h), the Certifications in Category 14.B apply to your Applicant, except as FTA determines otherwise in writing.

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The following Certifications for the Passenger Ferry Grant Program are required by 49 U.S.C. § 5307(c)(1) or (h). Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan.
4. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5307(h) during non-peak hours for transportation, it will ensure that the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
5. When carrying out a procurement under 49 U.S.C. § 5307(h), it will comply with:
 - a. The applicable general provisions of 49 U.S.C. § 5323, and
 - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. As required by 49 U.S.C. § 5307(d):
 - a. It has or will have the amount of funds required for the non-federal share,
 - b. It will provide the non-federal share from sources approved by FTA, and
 - c. It will provide the non-federal share when needed.
7. As required by 49 U.S.C. § 5307(c)(1)(H), it will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
8. As required by 49 U.S.C. § 5307(c)(1)(I), it has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation service.
9. It will comply with the final federal regulations that, when issued, will implement the safety plan requirements of 49 U.S.C. § 5329(d).

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CATEGORY 15. SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAMS.

Before FTA may provide federal assistance for an Award financed under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program authorized under 49 U.S.C. § 5310, as amended by the FAST Act, you must select the Certifications in Category 15 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 15 that does not apply will not be enforced.

1. The following Certifications for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program are required by 49 U.S.C. § 5310. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
 - a. Each Subrecipient is:
 - (1) A private nonprofit organization, or
 - (2) A state or local governmental authority that:
 - (a) Is approved by a state to coordinate services for seniors and individuals with disabilities, or
 - (b) Certifies that there are no private nonprofit organizations readily available in the area to provide the services authorized for support under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program.
 - b. It will comply with the following selection and planning requirements:
 - (1) The Projects it has selected or will select for an Award or Subaward of federal assistance appropriated or made available under 49 U.S.C. § 5310 are included in a public transit-human services transportation plan that has been:
 - (a) Locally developed, and
 - (b) Coordinated.
 - (2) The public transit-human services transportation plan was developed and approved through a process that included participation by:
 - (a) Seniors,
 - (b) Individuals with disabilities,
 - (c) Representatives of public, private, and nonprofit transportation providers,
 - (d) Representatives of public, private, and nonprofit human services providers, and
 - (e) Other members of the public.
 - (3) Within its Award, the Projects selected to receive federal assistance will assist in providing transportation services for seniors and individuals with

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- disabilities are included in its Program of Projects, that is or will be submitted to FTA annually.
- (4) To the maximum extent feasible, the services financed by 49 U.S.C. § 5310 will be coordinated with transportation services financed by other federal departments and agencies, including any transportation activities carried out by a recipient of federal assistance from the Department of Health and Human Services.
 - c. As required by 49 U.S.C. § 5310(e)(2)(B), it certifies that if it allocates to any Subrecipient federal assistance received under 49 U.S.C. § 5310, it will have allocated that federal assistance on a fair and equitable basis.
 - d. It will not transfer a facility or equipment acquired or improved with federal assistance appropriated or made available for a grant under 49 U.S.C. § 5310 to any other recipient eligible to receive assistance under 49 U.S.C. chapter 53, unless:
 - (1) The recipient possessing the facility or equipment consents to the transfer, and
 - (2) The facility or equipment will continue to be used as required under 49 U.S.C. § 5310.
 - e. As required by 49 U.S.C. § 5310(b)(2), it will use at least fifty-five (55) percent of the federal assistance it receives for Capital Projects to meet the special needs of seniors and individuals with disabilities.
 - f. The requirements of 49 U.S.C. § 5307, as determined by FTA, will apply to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program authorized by 49 U.S.C. § 5310.
2. FTA has determined that certain requirements of 49 U.S.C. § 5307 are appropriate for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, some of which require Certifications. Therefore, as specified under 49 U.S.C. § 5307(c)(1), it certifies that:
- a. It has or will have and will require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have and will require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award or Subaward.
 - c. It will maintain and will require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award or Subaward, in accordance with the recipient's transit asset management plan.
 - d. When carrying out a procurement under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, it will require each Subrecipient to comply with:
 - (1) The applicable general provisions of 49 U.S.C. § 5323, and
 - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.

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- e. With respect to the non-federal share:
 - (1) It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by 49 U.S.C. § 5310,
 - (2) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and
 - (3) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.
- f. It has complied or will comply and will require each Subrecipient to comply with:
 - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - (2) The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
- g. To the extent applicable, it will comply and require its Subrecipients to comply with the final federal regulations that, when issued, will implement the safety plan requirements of 49 U.S.C. § 5329(d).

CATEGORY 16. RURAL AREAS AND APPALACHIAN DEVELOPMENT PROGRAMS.

Before FTA may provide federal assistance for an Award financed under the Formula Grants for Rural Areas Program authorized under 49 U.S.C. § 5311(b), as amended by FAST Act, and the Appalachian Development Public Transportation Assistance Program authorized under 49 U.S.C. § 5311(c)(2), as amended by FAST, you must select the Certifications in Category 16 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications and Assurances in Category 16 that does not apply will not be enforced.

16.A. Formula Grants for Rural Areas Program.

If your Applicant seeks federal assistance from FTA for an Award financed under the Formula Grants for Rural Areas Program authorized under 49 U.S.C. § 5311, as amended by FAST Act, the Certifications in Category 16.A apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications apply to each state or state organization serving as your Applicant for federal assistance appropriated or made available for the Rural Areas Formula Program financed under 49 U.S.C. § 5311(b), as amended by FAST Act. On its behalf, you certify and assure that:

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1. It has or will have and require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have and require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain and require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan.
4. Its state program has provided for a fair distribution of federal assistance appropriated or made available under 49 U.S.C. § 5311(b) within the state to eligible entities, including Indian reservations.
5. Its program provides or will provide the maximum feasible coordination of federal assistance for public transportation service authorized by 49 U.S.C. § 5311(b) with transportation service financed by other federal sources.
6. Its Awards and Subawards in its Formula Grants for Rural Areas Program are included in:
 - a. The statewide transportation improvement program, and
 - b. To the extent applicable, a metropolitan transportation improvement program.
7. With respect to the non-federal share:
 - a. It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by former 49 U.S.C. § 5311(g),
 - b. It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and
 - c. It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.
8. It may transfer a facility or equipment acquired or improved under its Award to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
 - a. The Recipient possessing the facility or equipment consents to the transfer, and
 - b. The facility or equipment will continue to be used as required under 49 U.S.C. § 5311.
9. Each fiscal year:
 - a. It will spend at least fifteen (15) percent of its federal assistance authorized under 49 U.S.C. § 5311 and available that fiscal year for eligible activities to develop and support intercity bus transportation within the state including:
 - (1) Planning and marketing for intercity bus transportation,
 - (2) Capital grants for intercity bus facilities,
 - (3) Joint-use facilities,
 - (4) Operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects, and

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- (5) Coordinating rural connections between small public transportation operations and intercity bus carriers, or
- b. It will provide to FTA a Certification from the governor of the state that:
 - (1) It has consulted with the affected intercity bus service providers about the intercity bus needs of the state, and
 - (2) The state's intercity bus service needs are being met adequately.

16.B. Appalachian Development Public Transportation Assistance Program.

If your Applicant seeks federal assistance from FTA for an Award financed under the Appalachian Development Public Transportation Assistance Program authorized under 49 U.S.C. § 5311(c)(2), the Certification in Category 16.C applies to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify and assure that, in addition to other Certifications and Assurances it must provide, if it is unable to use its federal assistance made available or appropriated for public transportation operating assistance, in accordance with 49 U.S.C. § 5311(c)(2)(D), it may use the federal assistance for a Highway Project only after:

1. It provides notice and an opportunity for comment and appeal to affected public transportation providers,
2. It approves such use in writing, and
3. In approving the use, it determines that local transit needs are being addressed.

CATEGORY 17. TRIBAL TRANSIT PROGRAMS (PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS PROGRAMS).

Before FTA may provide federal assistance for an Award financed under either the Public Transportation on Indian Reservations Formula or Discretionary Program authorized under 49 U.S.C. § 5311(c)(1), as amended by the FAST Act, (Tribal Transit Programs), you must select the Certifications in Category 17 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 17 that does not apply will not be enforced.

FTA has established terms and conditions for Tribal Transit Program grants financed with federal assistance appropriated or made available under 49 U.S.C. § 5311(c)(1). On behalf of your Applicant, you certify and assure that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.

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2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan.
4. Its Award will achieve maximum feasible coordination with transportation service financed by other federal sources.
5. With respect to its procurement system:
 - a. It will have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 200, for Awards made on or after December 26, 2014,
 - b. It will have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 CFR part 18, specifically former 49 CFR § 18.36, for Awards made before December 26, 2014, or
 - c. It will inform FTA promptly that its procurement system does not comply with either of those U.S. DOT regulations.
6. It will comply with the Buy America requirements under 49 U.S.C. § 5323(j), as amended by FAST Act, and FTA regulations, "Buy America Requirements," 49 CFR part 661.
7. It will comply with the Certifications, Assurances, and Agreements in:
 - a. Category 03.B and 03.C (Charter Service Agreement and School Bus Agreement),
 - b. Category 05.B (Bus Testing),
 - c. Category 06 (Demand Responsive Service),
 - d. Category 07 (Intelligent Transportation Systems), and
 - e. Category 10 (Alcohol and Controlled Substances Testing).

CATEGORY 18. STATE SAFETY OVERSIGHT GRANT PROGRAM.

Before FTA may provide federal assistance for an Award financed under the State Safety Oversight Grant Program authorized under 49 U.S.C. § 5329(e)(6), you must select the Certifications in Category 18 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 18 that does not apply will not be enforced.

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

On behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award.
4. When carrying out a procurement under its Award, it will comply with:
 - a. The applicable general provisions of 49 U.S.C. § 5323, and
 - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
5. As required by 49 U.S.C. § 5329(e)(6)(C):
 - a. It has or will have the amount of funds required for the non-federal share,
 - b. It will provide the non-federal share only from sources approved by FTA, and will not be met by:
 - (1) Any federal assistance,
 - (2) Any funds received from a public transportation agency, or
 - (3) Any revenues earned by a public transportation agency, and
 - c. Will provide the non-federal share when needed.
6. It meets the applicable requirements of FTA regulations, “Rail Fixed Guideway Systems: State Safety Oversight,” 49 CFR part 659.
7. It has received or will receive an FTA certification upon a determination that its State Safety Oversight Program meets the requirements of 49 U.S.C. § 5329(e) and is adequate to promote the purposes of 49 U.S.C. § 5329.

CATEGORY 19. PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.

Before FTA may provide federal assistance for an Award financed under the Public Transportation Emergency Relief Program authorized under 49 U.S.C. § 5324, you must select the Certifications in Category 19 in addition to other Certifications and Assurances you must select on your Applicant’s behalf, except as FTA determines otherwise in writing.

Any provision of the Assurance in Category 19 that does not apply will not be enforced.

As required by 49 U.S.C. § 5324(d), on behalf of your Applicant, you assure that it will:

1. Comply with the requirements of the Certifications and Assurances as FTA determines will apply to an Applicant for federal assistance appropriated or made available for the Public Transportation Emergency Relief Program, and
2. Comply with FTA regulations, “Emergency Relief,” 49 C.F.R. part 602.

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CATEGORY 20. EXPEDITED PROJECT DELIVERY PILOT PROGRAM.

Before FTA may provide federal assistance for an Award financed under the Expedited Project Delivery Pilot Program authorized under section 3005(b) of the FAST Act, you must select the Certifications in Category 20 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

To the extent that any Certification in Category 20 does not apply, it will not be enforced.

As required by section 3005(b)(3)(B) of the FAST Act, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with the recipient's transit asset management plan.
4. It will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.

CATEGORY 21. INFRASTRUCTURE FINANCE PROGRAMS.

Before FTA may provide credit assistance for an Award financed under the Transportation Infrastructure Finance and Innovation Act (TIFIA) Program authorized under 23 U.S.C. §§ 601 – 609, or the State Infrastructure Banks (SIB) Program authorized under 23 U.S.C. § 610, you must select the Certifications in Category 23 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications and Assurances in Category 21 that does not apply will not be enforced.

21.A. Transportation Infrastructure Finance and Innovation Act (TIFIA) Program.

If your Applicant seeks federal assistance from FTA for an Award financed under the TIFIA Program authorized under 23 U.S.C. §§ 601 – 609 the Certifications and Assurances in Category 23.A applies to your Applicant, except as FTA determines

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otherwise in writing. In administering this Program, the FAST Act cross-cutting requirements supersede inconsistent former requirements.

On behalf of your Applicant, you certify and assure, as required by 49 U.S.C. § 5323(o), that federal transit laws, specifically 49 U.S.C. § 5307, 49 U.S.C. § 5309, and 49 U.S.C. § 5337, apply to any Project under 49 U.S.C. chapter 53 that receives TIFIA credit assistance under 23 U.S.C. §§ 601 – 609.

1. To comply with 49 U.S.C. § 5307, specifically 49 U.S.C. § 5307(c)(1), on its behalf, you certify that:
 - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
 - c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan.
 - d. For transportation during non-peak hours and using or involving a facility or equipment of an Award financed using 49 U.S.C. § 5307 funds, it will ensure that the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - (1) Any senior,
 - (2) Any individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
 - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
 - e. When carrying out a TIFIA-financed procurement, it will comply with:
 - (1) The applicable provisions of 49 U.S.C. § 5323, and
 - (2) The applicable provisions of 49 U.S.C. § 5325.
 - f. It has complied with or will comply with 49 U.S.C. § 5307(b).
 - g.
 - (1) It has or will have no more than 80 percent of the Total Award Budget as the sum of all federal grants and any TIFIA-financed awards,
 - (2) It will provide the non-federal share from sources approved by FTA, and
 - (3) It will provide the non-federal share when needed.
 - h. It will comply with:
 - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - (2) The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.

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- i. It has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation.
- j. It will comply with the final federal regulations that, when issued, will implement the safety plan requirements of 49 U.S.C. § 5329(d).
2. To comply with the interest and financing costs restrictions of 49 U.S.C. chapter 53, it agrees that it will not seek reimbursement for interest or any other financing costs incurred in connection with its Award that must be in compliance with those requirements unless:
 - a. It is eligible to receive federal assistance for those expenses, and
 - b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.
3. It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*).
4. Pursuant to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 5321 *et seq.*, it will receive an environmental categorical exclusion, a finding of no significant impact, or a record of decision under NEPA for its Award before obligating federal assistance.
5. It agrees that it will adopt a transit asset management plan that complies with regulations implementing 49 U.S.C. § 5326(d), when required.

21.B. State Infrastructure Banks (SIB) Program.

If your Applicant is a state and seeks federal assistance from FTA financed under the SIB Program authorized under 23 U.S.C. § 610, the Certifications and Assurances in Category 23.B applies to your state and its Award, except as FTA determines otherwise in writing. In administering this Program, the FAST Act cross-cutting requirements supersede inconsistent former requirements.

On behalf of the state organization serving as your Applicant for federal assistance for its SIB Program, you certify and assure that:

1. It will comply with the following applicable federal laws establishing the various SIB Programs since 1995:
 - a. 23 U.S.C. § 610, as amended by the FAST Act,
 - b. 23 U.S.C. § 610 or its predecessor before the FAST Act was signed into law,
 - c. Section 1511 of TEA-21, 23 U.S.C. § 181 note, or
 - d. Section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. § 181.
2. It will comply with or follow the Cooperative Agreement establishing the state's SIB Program between:
 - a. It and FHWA, FRA, and FTA, or
 - b. It and FHWA and FTA.

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3. It will comply with or follow the Grant Agreement that provides federal assistance from FTA for the SIB and is between it and FTA, including the FTA Master Agreement, which is incorporated by reference into the Grant Agreement, except that any provision of the FTA Master Agreement incorporated by reference into that Grant Agreement will not apply if it conflicts with any provision of:
 - a. 23 U.S.C. § 610, as amended by the FAST Act,
 - b. 23 U.S.C. § 610 or its predecessor before the FAST Act was signed into law,
 - c. Section 1511 of TEA-21, 23 U.S.C. § 181 note, or section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. § 181 note,
 - d. Federal guidance pertaining to the SIB Program,
 - e. The Cooperative Agreement establishing the state's SIB Program, or
 - f. The Grant Agreement with FTA.
4. As required by 49 U.S.C. § 5323(o), federal transit laws, specifically 49 U.S.C. § 5307, 49 U.S.C. § 5309, and 49 U.S.C. § 5337, as amended by the FAST Act, apply to any Award under 49 U.S.C. chapter 53 that receives SIB support or financing under 23 U.S.C. § 610 (or any support from 23 U.S.C. §§ 601 – 609).
5. As required by 49 U.S.C. § 5323(o) and 49 U.S.C. § 5307(c)(1):
 - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
 - c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan.
 - d. When using or involving a facility or equipment acquired or improved with federal assistance under a SIB-financed Award during non-peak hours for transportation, it will ensure that the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - (1) Any senior,
 - (2) Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
 - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
 - e. When carrying out a procurement under a SIB-financed Award, it will comply with:
 - (1) The applicable general provisions of 49 U.S.C. § 5323, and
 - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.
 - f. It has complied with or will comply with 49 U.S.C. § 5307(b).

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- g. (1) It has or will have the amount of funds required for the non-federal share by the SIB Program, but not less than twenty-five (25) percent of each capitalization grant,
 - (2) It will provide the non-federal share from sources approved by FTA, and
 - (3) It will provide the non-federal share when needed.
 - h. It will comply with:
 - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - (2) The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
 - i. It has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation.
 - j. It will comply with the final federal regulations that, when issued, will implement the safety plan requirements of 49 U.S.C. § 5329(d).
6. As required by 49 U.S.C. chapter 53, it certifies that it will not seek reimbursement for interest or any other financing costs incurred in connection with its Award unless:
- a. It is eligible to receive federal assistance for those expenses, and
 - b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, as FTA may require.
7. It agrees that it will adopt a transit asset management plan that complies with regulations implementing 49 U.S.C. § 5326(d).

GROUP CATEGORY 22. PAUL S. SARBANES TRANSIT IN PARKS PROGRAM

Before FTA may provide federal assistance for an Award financed under the Paul S. Sarbanes Transit in Parks Program authorized under former 49 U.S.C. § 5320, in effect in FY 2012 or a previous fiscal year, except as superseded by FAST Act requirements that apply you must select the Certifications in Category 22 in addition to other Certifications and Assurances you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications and Assurances in Category 22 that does not apply will not be enforced.

1. Except as superseded by the FAST Act cross-cutting requirements that apply, the following Certifications and Assurances for the Paul S. Sarbanes Transit in Parks Program (Parks Program) are required by former 49 U.S.C. § 5320, in effect in FY 2012 or a previous fiscal year. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

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- a. It will consult with the appropriate federal land management agency during the planning process, and
 - b. The requirements of former 49 U.S.C. § 5307, as determined by FTA, will apply to the Parks Program authorized by former 49 U.S.C. § 5320.
2. FTA has determined certain requirements of former 49 U.S.C. § 5307 to be appropriate for the Parks Program, of which some require Certifications. Therefore, as specified under former 49 U.S.C. § 5307(d)(1), except as superseded by the FAST Act cross-cutting requirements that apply, you certify that:
- a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
 - c. It will maintain its equipment and facilities acquired or improved under its Award.
 - d. When carrying out a procurement under former 49 U.S.C. § 5320, it will comply and will require each Subrecipient to comply with the following provisions:
 - (1) Competitive procurement (as defined or approved by FTA) requirements of 49 U.S.C. § 5325(a),
 - (2) The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. § 5323(h),
 - (3) “Buy America” requirements under 49 U.S.C. § 5323(j), as amended by the FAST Act, and FTA regulations, “Buy America Requirements,” 49 CFR part 661,
 - (4) Applicable pre-award and post-delivery requirements of 49 U.S.C. § 5323(m),
 - (5) Applicable railcar option restrictions of 49 U.S.C. § 5325(e), and
 - (6) “Veterans Preference/Employment” requirements under 49 U.S.C. § 5325(k).
 - e. It will comply with other applicable requirements under 49 U.S.C. § 5323 and § 5325.
 - f. It has complied or will comply with the requirements of former 49 U.S.C. § 5307(c), and specifically:
 - (1) It has made or will make available to the public information on the amounts available for the Parks Program, former 49 U.S.C. § 5320, and the Projects it proposes to implement under its Award,
 - (2) It has developed or will develop, in consultation with interested parties including private transportation providers, Projects to be financed under its Award,
 - (3) It has published or will publish a list of proposed Projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed Projects and submit comments on the proposed Projects and its performance,

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

- (4) It has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed Projects,
 - (5) It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and
 - (6) It has made or will make the final list of Projects for which an Award is sought available to the public.
- g. With respect to the non-federal share:
- (1) It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by 49 U.S.C. § 5320,
 - (2) It will provide the non-federal share from sources approved by FTA, and
 - (3) It will provide the non-federal share when needed.
- h. It has complied or will comply with and will require each Subrecipient to comply with:
- (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - (2) The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
- i. It has a locally developed process to solicit and consider public comment before:
- (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation.

CATEGORY 23. CONSTRUCTION HIRING PREFERENCES.

Before FTA may provide federal assistance for a third party contract for construction hiring financed under title 49 U.S.C. or title 23 U.S.C. using a geographic, economic, or any other hiring preference not otherwise authorized by federal law or regulation, you must select the Certifications in Category 23 on behalf of your Applicant in addition to other Certifications you must select on your Applicant's behalf, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 23 that does not apply will not be enforced.

As provided by section 192 of division L, title I of the Consolidated Appropriations Act, 2016, Pub. L. 114-113, on behalf of your Applicant, you certify that if, in connection with any third party contract for construction hiring financed under title 49 U.S.C. or title 23 U.S.C., it uses a geographic, economic, or any other hiring preference not otherwise authorized by law or prohibited under 2 CFR § 200.319(b):

1. Except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

- work that the third party contract requires resides in the jurisdiction where the work will be performed;
2. It will include appropriate provisions in its bid document ensuring that its third party contractor(s) do not displace any of its existing employees in order to satisfy such hiring preference; and
 3. That any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the applicable Statewide Transportation Improvement Program or Transportation Improvement Program.

Selection and Signature Page(s) follow.

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

**FEDERAL FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES FOR
FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS**

(Signature pages alternative to providing Certifications and Assurances in TrAMS)

Name of Applicant: _____

The Applicant agrees to comply with applicable provisions of Categories 01 – 23. _____

OR

The Applicant agrees to comply with applicable provisions of the Categories it has selected:

<u>Category</u>	<u>Description</u>	
01.	Required Certifications and Assurances for Each Applicant.	_____
02.	Lobbying.	_____
03.	Procurement and Procurement Systems.	_____
04.	Private Sector Protections.	_____
05.	Rolling Stock Reviews and Bus Testing.	_____
06.	Demand Responsive Service.	_____
07.	Intelligent Transportation Systems.	_____
08.	Interest and Financing Costs and Acquisition of Capital Assets by Lease.	_____
09.	Transit Asset Management Plan and Public Transportation Agency Safety Plan.	_____
10.	Alcohol and Controlled Substances Testing.	_____
11.	Fixed Guideway Capital Investment Grants Program (New Starts, Small Starts, and Core Capacity Improvement).	_____
12.	State of Good Repair Program.	_____
13.	Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs.	_____
14.	Urbanized Area Formula Grants Programs and Passenger Ferry Grant Program.	_____
15.	Seniors and Individuals with Disabilities Programs.	_____
16.	Rural Areas and Appalachian Development Programs.	_____
17.	Tribal Transit Programs (Public Transportation on Indian Reservations Programs).	_____
18.	State Safety Oversight Grant Program.	_____
19.	Public Transportation Emergency Relief Program.	_____
20.	Expedited Project Delivery Pilot Program.	_____
21.	Infrastructure Finance Programs.	_____
22.	Paul S. Sarbanes Transit in Parks Program.	_____
23.	Hiring Preferences	_____

FTA FISCAL YEAR 2016 CERTIFICATIONS AND ASSURANCES

FEDERAL FISCAL YEAR 2016 FTA CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE
(Required of all Applicants for federal assistance to be awarded by FTA and all FTA Grantees with an active Capital or Formula Award)

AFFIRMATION OF APPLICANT

Name of the Applicant: _____

Name and Relationship of the Authorized Representative: _____

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all federal laws, regulations, and requirements, follow applicable federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in federal fiscal year 2016, irrespective of whether the individual that acted on his or her Applicant's behalf continues to represent it.

FTA intends that the Certifications and Assurances the Applicant selects on the other side of this document should apply to each Award for which it now seeks, or may later seek federal assistance to be awarded by FTA during federal fiscal year 2016.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. § 1001 apply to any certification, assurance, or submission made in connection with a federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute.

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

Signature _____ Date: _____

Name _____
Authorized Representative of Applicant

AFFIRMATION OF APPLICANT'S ATTORNEY

For (Name of Applicant): _____

As the undersigned Attorney for the above named Applicant, I hereby affirm to the Applicant that it has authority under state, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on it.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of its FTA assisted Award.

Signature _____ Date: _____

Name _____
Attorney for Applicant

Each Applicant for federal assistance to be awarded by FTA and each FTA Recipient with an active Capital or Formula Project or Award must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its electronic signature in lieu of the Attorney's signature within FTA's electronic award and management system, provided the Applicant has on file and uploaded to FTA's electronic award and management system this hard-copy Affirmation, signed by the attorney and dated this federal fiscal year.

EXHIBIT F

HUALAPAI TRIBE PROCUREMENT PROCEDURES AND PURCHASING MANUAL

**Procurement
Procedures and
Purchasing Manual**

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I. GENERAL PROVISIONS

A. Purpose: This Procurement Policy is designed to:

- provide for the fair and equitable treatment of all persons or firms involved in purchasing by the Hualapai Tribe;
- assure that supplies, services, and construction are procured efficiently, effectively and at the most favorable prices available;
- promote competition in contracting;
- provide safeguards for maintaining a procurement system of quality and integrity;
- and assure that purchasing actions are in full compliance with applicable Federal standards, and State, Tribal and Local laws. This Policy of Procurement complies with OMB Circular A-102, section .36, NAHASDA, and the P.L. 93-638 procurement standards at 25 C.F.R. 900, Subpart F.

B. Application: This Procurement Policy shall apply to all contracts for the procurement of supplies, services, and construction entered into by the Hualapai Tribe after the effective date of this Policy. It shall apply to purchasing, irrespective of the source of funds, including contracts which do not involve an obligation of funds (such as concession contracts); however nothing in this Policy shall affect the terms and conditions of any grant, contract, gift, or bequest that are otherwise consistent with law. When both Federal and non-Federal funds are used for a project, the work to be accomplished with the funds should be separately identified, and the Federal governments' Indian preference regulations must be applied to the work financed by the Federal Government; if it is not possible to separate the funds, then the Federal government's Indian Preference regulations shall be applied to the total project. The term "procurement," as used in this Policy, includes both contracts and modifications (including change orders) for construction or other services, as well as purchase, lease, or rental of supplies and equipment.

C. Definitions: The terms used in this Policy shall be defined as set forth in OMB Circular A-102, Section .36.

II. PROCUREMENT AUTHORITY AND ADMINISTRATION

A. Purchasing: Purchases will be initiated by individual department personnel. All procurement transactions shall be reviewed by the Finance Department to ensure their compliance with this policy.

B. The individuals initiating a purchase shall ensure that the following guidelines are met:

1. Contracts and modifications are in writing, clearly specifying the desired supply, services or construction, and are supported by sufficient documentation regarding the history of the procurement, including as a minimum the method of procurement chosen, the selection of the contract type, the rationale for selecting or rejecting offers, and the basis for the contract price.

2. For procurement on other than small purchases, public notice is given for each upcoming procurement at least 10 days before a solicitation is issued. A minimum of 30 days for major construction contracts and 15 days for other contracts shall be provided for preparation and submission of bids or proposals. Notice of contract awards shall be made available to the public.

3. Solicitation procedures are conducted in full compliance with Federal standards and the Indian preference requirements and methods of procurement established under such Federal Standards.

5. For sealed bids, contract award is made to the responsive and responsible bidder offering the lowest price, consistent with the Indian Preference requirements (for sealed bid contracts). For competitive proposals, contract award is made to the offeror whose proposal offers the greatest value to the Hualapai Tribe, considering price, technical, and other factors as specified in the solicitation, including Indian Preference (for contracts awarded based on competitive proposals). Unsuccessful firms shall be notified.

6. There are sufficient unencumbered funds available to cover the anticipated cost of each procurement before contract award or modification (including any change order), work is inspected before payment, and payment is made promptly for contract work performed and accepted.

7. Sufficient records are maintained to detail the significant history of a procurement including, but not limited to, rationale for the method of procurement, selection of contract

type, contractor selection or rejection, and the basis for the contract price.

C. Procurement Policy Amendments: This Policy and any changes made hereto shall be submitted to the Tribal Council for approval. The Tribal Council appoints or delegates procurement authority to the Finance Department and is responsible for ensuring that any procurement policies adopted are appropriate for the Hualapai Tribe provided, however, that Federal and applicable Tribal standards have been met. The

III. PROCUREMENT METHODS

A. Method of Selection: When satisfying its needs by procurement, the Hualapai Tribe shall choose one of the following procurement methods, based on the nature and anticipated dollar value of the total requirement.

B. Small Purchase Procedures: The following small purchase procedures shall be followed by the Hualapai Tribe:

1. **General:** Any procurement not exceeding \$100,000 may be conducted in accordance with the small purchase procedures authorized in this section. Contract requirements shall not be artificially divided as to constitute a small purchase under this section.

2. **Indian Preference:** The Hualapai Tribe shall, to the greatest extent feasible, provide preference to Indian-owned economic enterprises and Indian organizations and shall also endeavor to maintain and/or refer to lists of qualified Indian supply sources. The Hualapai Tribe shall require a statement from all contractors agreeing to provide Indian preference in subcontracting, training, and employment and shall specify the method to be used. The Hualapai Tribe shall document its efforts in providing Indian preference. If no quotations are solicited or received from Indian-owned economic enterprises or Indian organizations, the Hualapai Tribe shall document the procurement file with the reasons for the lack of Indian participation.

4. **Small purchases of \$100,000 or less but greater than \$5000:** At the Hualapai Tribe's option, the Hualapai Tribe may elect to use small purchase procedures in accordance with Federal regulations and shall also adhere to the following procedures regarding small purchases:

a. **Obtaining quotes:** The Hualapai Tribe shall solicit quotations by phone, letter, or other informal procedure that allows participation by a reasonable number (at least three) of competitive sources. When soliciting quotations, the Hualapai Tribe shall inform the sources solicited of the specific item being procured, the time by which quotations must be submitted, and the information required to be submitted with each quotation. A written quotation may be a confirmation of a previous oral quotation only if it is submitted within 10 days of the oral quotation, or by the closing date for submitting quotations as determined by the Hualapai Tribe. The names, addresses, and/or telephone numbers of the offerors and persons contacted, and the date and amount of each quotation shall be recorded and maintained as a public record.

b. Competition: The Hualapai Tribe shall attempt to obtain quotations from a minimum of three qualified sources and document the procurement file with a justification whenever it has been unable to obtain at least three quotations. Soliciting fewer than three sources is acceptable only if the Hualapai Tribe has attempted but has been unable to obtain a sufficient number of quotations. The sole source quotation received may be accepted only in unusual circumstances (such as an emergency threatening public health and safety or a public exigency).

c. Award based on price: For small purchases awarded based on price and fixed specifications (i.e., not subject to negotiation) the Hualapai Tribe shall make award to the responsible qualified Indian-owned enterprise or organization with the lowest responsible, responsive quotation if it is reasonable and within 10% of the lowest responsible, responsive Non-Indian quotation received. If no responsible, responsive quotation from a qualified Indian-owned economic enterprise or organization is within 10% of the lowest responsible, responsive quotation from any Non-Indian qualified source, then award shall be made to the Non-Indian source with the lowest quotation.

d. Award based on factors other than price: For small purchases to be awarded based on factors other than price, a formal solicitation (request for proposals or request for quotations) shall be issued, including evaluation factors and a rating system to evaluate each proposal or quotation. The solicitation shall identify all evaluation factors, including cost or price. The solicitation shall reserve 10% of the total evaluation points for providing Indian preference. Award shall be made to the best proposal or quotation (with the highest overall points) in accordance with the stated rating system.

C. Sealed Bids: The Hualapai Tribe shall use the following method of sealed bids in accordance with Federal standards.

1. Conditions for Use: Contracts may be awarded based on competitive sealed bidding if the following conditions are present: a complete, adequate, or realistic specification or purchase description is available; two or more responsible bidders are willing and able to compete effectively for the business; the procurement lends itself to a firm fixed price contract; and the selection of the successful bidder can be made principally based on the basis of price. Sealed bidding is the preferred method for construction procurement. Sealed bidding should not be used for professional service contracts.

2. Solicitation and Receipt of Bids: The following procedures shall be followed by the Hualapai Tribe in soliciting and receiving bids:

a. Issuance and Amendment: An Invitation For Bids ("IFB") shall be issued including specifications and pertinent attachments applicable to the procurement. Any amendments to the invitation shall be in writing, and if it is necessary to issue an amendment within

seven days prior to the bid opening, the bid opening shall be postponed until at least seven days after the issuance of the amendment. The solicitation shall require that the bidder acknowledge the receipt of any amendments. Failure to acknowledge the amendment which confers an advantage to the bidder shall be grounds for rejection. The IFB shall state the time and place for both the receipt of bids and the public bid opening. All bids shall be time-stamped and dated when received but not opened and shall be stored in a secure place until bid opening. A bidder may withdraw its bid at any time prior to bid opening.

b. The Hualapai Tribe shall solicit bids from non-Indian as well as Indian- owned economic enterprises and Indian organizations.

3. Bid Opening: Bids shall be opened publicly and in the presence of at least one witness. An abstract of bids shall be recorded and the bids shall be available for public inspection. Bid opening shall be open to all persons.

4. Award: Awards for sealed bids shall be made as provided in the IFB by written notice to the successful bidder, as follows: (Note: Negotiations are prohibited in sealed bidding.) Award shall be made to the responsible qualified Indian-owned economic enterprise with the lowest responsible, responsive bid, if that Indian bid is within the maximum total contract price established for the specific project or activity being solicited, and the bid is within the X% range as shown in Appendix A to this Policy. If equal low bids are received from qualified, responsible Indian-owned enterprises or organizations, award shall be made by drawing lots or similar random method, unless otherwise provided in tribal law. If no responsive bid by a responsible, qualified Indian-owned economic enterprise or organization is within this range, award shall be made to the lowest responsible, responsive Non-Indian bidder.

5. Mistakes in Bids: All decisions to allow correction or withdrawal of bid mistakes shall be supported by a written determination signed by the Grants and Contracts Coordinator. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the Hualapai Tribe or to other competitors or to fair competition shall be permitted. All mistakes in bid must be apparent on the face of the document.

D. Competitive Proposals: The Hualapai Tribe shall use the procurement method of competitive proposals in accordance with Federal regulations as follows:

1. Conditions for Use: Competitive proposals may be used if there is an adequate method of evaluating technical proposals and where the Hualapai Tribe determines that conditions are not appropriate for the use of sealed bidding and when award shall be based on more than price factor. An adequate number of qualified sources shall be solicited and the requirement shall be publically advertised.

2. Solicitation: The Hualapai Tribe shall solicit proposals from non-Indian as well as Indian-owned economic organizations. A mechanism for fairly and thoroughly evaluating the technical and price proposals shall be established before the solicitation is issued, including the development of the evaluation criteria by the Hualapai Tribe concerning the RFP, which includes the development of a rating system that provides for the assignment of points for relative merit of submitted proposals. Proposals shall be handled so as to prevent disclosure of the number of offerors, identity of the offerors, and the contents of their proposals.

3. Evaluation Factors: The RFP shall clearly identify the relative importance of price and other technical evaluation factors and subfactors, including the weight given to each technical factor and subfactor. The Hualapai Tribe may reserve up to 10% of the total number of available rating points in for the provision of Indian preference in the award of contracts and subcontracts, and up to an additional 10% for evaluation of the offeror's statement regarding training and employment of Indians. The proposals shall be evaluated only on the criteria stated in the request for proposals. A cost and price analysis shall be conducted on all offers determined to be responsible prior to negotiations.

4. Negotiations: In those situations where negotiations are deemed necessary, negotiations shall be conducted with offerors who submit proposals determined to have a reasonable chance of being selected for award, based on evaluation against the technical and price factors as specified in the RFP (i.e., competitive range). Such offerors shall be accorded fair and equal treatment with respect to any opportunity for negotiation and revision of proposals. The purpose of negotiations shall be to seek clarification and advise offerors of the deficiencies in both the technical and price aspects of their proposals so as to assure full understanding of and conformance to the solicitation requirements. No offeror shall be provided information about any other offeror's proposal, and no offeror shall be assisted in bringing its proposal up to the level of any other proposal. Offerors shall not be directed to reduce their proposed prices to a specific amount in order to be considered for award. A common deadline shall be established for receipt of proposal revisions based on negotiations and all offerors in the competitive range shall be required to submit a best and final offer.

5. Award: After evaluation of proposal revisions, if any, the contract shall be awarded to the responsible firm whose qualifications, price and other factors considered, are the most advantageous to the Hualapai Tribe, provided the price is within the maximum total contract price established for the specific project or activity. The Hualapai Tribe may accept a single proposal received, subject to Federal approval, in unusual circumstances, such as when the Hualapai Tribe determines that the delays caused by resoliciting would cause higher costs, or where the Hualapai Tribe determines that the proposal has a fair and reasonable price and the Hualapai Tribe determines that the offeror had a reasonable expectation of competition.

6. Architect/Engineer Services: Architect/Engineer Services in excess of the small purchase limitation may be obtained using qualifications-based selection procedures under the competitive proposal method. Sealed bidding shall not be used to obtain architect/engineer

services. Under qualifications-based selection procedures, competitors qualifications are evaluated and the most qualified competitor is selected, and is then subject to the negotiation of fair and reasonable compensation. These procedures shall not be used to purchase other types of services even though architect/engineer firms are potential sources.

E. Noncompetitive Proposals: Procurement shall be conducted competitively to the maximum extent possible. Procurement by noncompetitive proposals may be used only when the award of a contract is not feasible using small purchase procedures, sealed bids, or competitive proposals, and only if one of the following applies:

1. **Emergencies:** An emergency or public exigency exists when a situation occurs that seriously threatens the public health, welfare, safety, or endangers property, or would otherwise cause serious injury to the Hualapai Tribe and its staff, as may arise by reason of a flood, earthquake, epidemic, riot, equipment failure, or similar event. In such cases, there must be an immediate and serious need for supplies, services, or construction such that the need cannot be met through any other procurement methods because of the delay associated with other procurement methods. The emergency procurement shall be limited to those supplies, services, or construction necessary to meet the emergency; or

2. **Single Source of Supply:** When only one source of supply is available.

3. **Inadequate Competition:** After solicitation of a number of sources, competition is determined inadequate; or

4. **Federal Authorization:** The Federal Government specifically authorizes the use of noncompetitive proposals prior to solicitation.

5. **Justification:** Each procurement based on noncompetitive proposals shall be supported by a written justification for using such procedures.

6. **Price Reasonableness:** The reasonableness of the price for all procurement based on noncompetitive proposals shall be determined by performing a cost analysis, as described below.

H. Cost and Price Analysis: A cost or price analysis shall be performed for all procurement actions, including contract modifications. Prior to solicitation, the Hualapai Tribe shall prepare an estimate of the anticipated costs/price. The method of analysis shall be determined as provided below. The degree of analysis shall depend on the facts surrounding each procurement.

1. **Submission of Cost or Pricing Information:** If the procurement is based on noncompetitive proposals or when only one offer is received, or when contracting for professional services, consulting, or architect/engineer services using the Request for Proposal method, the offeror shall be required to submit:

- a. A detailed cost breakdown showing projected costs and profit;
- b. Commercial pricing and sales information, sufficient to enable the Hualapai Tribe to verify the reasonableness of the proposed price as a catalog or market price of a commercial product sold in substantial quantities to the general public; or
- c. Documentation showing that the offered price is set by law or regulation.

3. Price Analysis: A comparison of prices shall be used in all cases other than those described in Paragraph 1 and 2 above. Thus price analysis shall be used for all competitive sealed bids where more than one bidder submits a bid.

I. Cancellation of Solicitations: The Hualapai Tribe shall adhere to the following provision whenever it cancels solicitations:

1. Before Offers are Due: An IFB, RFP, or other solicitations may be canceled before offers are due if: The Hualapai Tribe no longer requires the supplies, services or construction; or, the Hualapai Tribe can no longer reasonably expect to fund the procurement; or, proposed amendments to such solicitation will be of such magnitude that a new solicitation would be desirable; or similar reasons.

2. After Bids Have Been Received: An Invitation for Bids solicitation (IFB) may be canceled and all bids that have already been received may be rejected if: the supplies, services or construction are no longer required; ambiguous or otherwise defective specifications were given; the solicitation did not provide for consideration of all factors of significance to the Hualapai Tribe; or, prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds; or, there is reason to believe that bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.

Request for Proposals (RFP) may be cancelled for good cause of a similar nature to the above

or whenever it is in the best interest of the Hualapai Tribe.

3. **Documentation of Cancellation:** The reasons for cancellation shall be documented in the procurement file and the reasons for cancellation and/or rejection shall be provided upon request to any offeror.

4. **Notice of Cancellation:** A notice of cancellation shall be sent to all offerors solicited and, if appropriate, shall explain that they will be given an opportunity to compete on any resolicitation or future procurement of similar items.

5. **Unreasonable Bids:** If all otherwise acceptable bids are received in response to an IFB are at unreasonable prices, or only one bid is received and the price is unreasonable, the Hualapai Tribe shall either:

- a. Cancel the solicitation and resolicit using a request for proposal; or
- b. Complete the procurement by conversion to the competitive proposals method.

IV. CONTRACTOR QUALIFICATIONS AND DUTIES

A. **Contractor Responsibility:** Procurement shall be conducted only with responsible contractors, i.e., those that have the technical, administrative and financial competence to perform contract work of the size and type involved and within the time provided under the contract and who have a satisfactory record of integrity. Before awarding a contract, the Hualapai Tribe shall review the proposed contractor's ability to perform the contract successfully, considering factors such as the contractor's integrity (including a review of the List of Parties Excluded from Federal Procurement and Nonprocurement Programs published by the U.S. General Services Administration), compliance with the public policy, record of past performance (including contacting previous clients of the contractor), and financial, administrative, and technical capability to perform contract work of the size and type involved and within the time provided under the contract. If a prospective contractor is found to be non-responsible, a written determination of non-responsibility shall be prepared and included in the contract file, and the prospective contractor shall be advised of the reasons for the determination.

B. **Suspension and Debarment:** Contracts shall not be awarded to debarred, suspended or ineligible contractors. Contractors may be debarred, suspended or determined ineligible by the Federal government when necessary to protect the government in its business dealings. The Hualapai Tribe may also suspend or debar a contractor under tribal laws as applicable.

C. **Bonds:** The Hualapai Tribe shall require contractors to obtain assurance of performance as follows: (Bonds are required for construction contracts in excess of \$100,000.)

1. **Bid Bonds.** In addition to the other requirements of this Policy, for construction of

development projects, the successful bidder shall be required to submit with their bid either:

- a bid bond in the amount of 5% of the total contract price or a cash escrow deposited with the Hualapai Tribe of not less than 5 % of the total contract price, subject to reduction, with approval of The Federal Government or

- An Irrevocable Letter of Credit for 5% of the total contract price, unconditionally payable upon demand of the Hualapai Tribe, subject to reduction, with the approval of The Federal Government.

2. Upon selection for award, Performance and Payment bonds each for 100% of the total contract price shall be submitted.

V. CONTRACT CLAUSES AND CONTRACT ADMINISTRATION

A. Contract Clauses: In addition to containing a clause identifying the contract type, all contracts shall include any clauses required by Federal statutes, executive orders, and their implementing regulations, including but not limited to the following: (as applicable to the commodity purchased)

1. Termination for convenience;
2. Termination for default;
3. Equal Employment Opportunity;
4. Anti-Kickback Act;
5. Davis Bacon Act (and implementing regulations);
6. Contract Work Hours and Safety Standards Act;
7. Reporting requirements;
8. Patent rights;
9. Rights in data;
10. Examination of records by Comptroller General;
11. Retention of records for three years after closeout;
12. Clean air and water;
13. Energy efficiency standards;
14. Bid protests and contract claims;
15. Payment of funds to influence certain Federal transactions; and
16. Value engineering.

B. Including Required Clauses: If all required clauses are not included on the forms, the Hualapai Tribe shall attach any additional clauses to the forms used in contract documents. The operational procedures under section II of this Policy may contain the text of all clauses and

required certifications (such as required non-collusive affidavits) used by the Hualapai Tribe. The Hualapai Tribe shall include the contract clauses and solicitation notices for Indian preference described in section VIII below.

C. **Contract Administration:** A contract administration system designed to insure that contractors perform in accordance with their contracts shall be maintained. The operational procedures under section II above may contain guidelines for inspection of supplies, services, or construction, as well as monitoring contractor performance, status of reporting on construction contracts, and similar matters. For cost reimbursement contracts with commercial firms, costs are allowable only to the extent that they are consistent with the costs principles in FAR Subpart 31.2.

VI. SPECIFICATIONS

A. General: All specifications used in solicitations shall be drafted so as to promote overall economy for the purposes intended and to encourage competition in satisfying the Hualapai Tribe needs. Specifications shall be reviewed prior to solicitation to ensure that they are not unduly restrictive or represent unnecessary or duplicate items. Functional or performance specifications are preferred. Detailed product specifications shall be avoided whenever possible. Consideration shall be given to consolidating or breaking out procurement to obtain a more economical purchase. For equipment purchases, a lease versus purchase analysis should be performed to determine the most economical form of procurement.

B. Limitations: The following specification limitations shall be avoided: geographic restrictions not mandated or encouraged by applicable Federal law (except for architect/engineer contracts, which may include geographic location as a selection factor if adequate competition is available); unnecessary bonding or experience requirements; brand name specification (unless a written determination is made that only the identified item will satisfy the Hualapai Tribe's needs); brand name or equal description specifications (unless they list the minimum essential characteristics and standards to which the item must conform to satisfy its intended use).

Nothing in this procurement policy shall preempt any tribal licensing laws. However, tribal licensing (e.g., TERO) shall not be grounds for restriction of the firms solicited. Specifications shall be scrutinized to ensure that organizational conflicts of interest do not occur (for example, having a consultant perform a study of the Hualapai Tribe's computer needs and then allowing that consultant to compete for the subsequent contract for the computers).

VII. APPEALS AND REMEDIES

A. General: It is the Hualapai Tribe's policy to resolve all contractual issues informally at the Hualapai Tribe level, without litigation. Disputes shall not be referred to the Federal government until all informal and/or administrative remedies have been exhausted at the Hualapai Tribe level. When appropriate, the Hualapai Tribe may consider the use of informal discussion between the parties by individuals who did not participate substantially in the matter in dispute, to help resolve the differences. The Federal government will only review the protests in cases of violations of Federal law or regulations and failure of the Hualapai Tribe to review a complaint or protest.

B. Bid Protests: Any actual or prospective contractor may protest the solicitation or award of a contract for serious violations of the principles of this Policy. Any protest against a solicitation must be received before the due date for receipt of bids or proposals, and any protest against the award of a contract must be received within ten (10) calendar days after contract award or the protest will not be considered. All bid protests shall be in writing, submitted to the Grants and Contracts Coordinator.

C. Protests Involving Indian Preference: Complaints arising out of any of the methods of providing for Indian Preference shall be handled in accordance with Federal law.

VIII. ASSISTANCE TO SMALL AND OTHER BUSINESSES

A. Required Efforts: The Hualapai Tribe shall make efforts to ensure that small, minority and disadvantaged businesses are used when possible. Such efforts shall include, but shall not be limited to:

1. Including such firms, when qualified, on solicitation mailing lists;
2. Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;
5. Using the services and assistance of the U.S. Small Business Administration;
6. Including in IFB's or RFP's estimated to exceed \$500,000, a clause requiring offerors "to the greatest extent feasible, to provide opportunities for training and employment to small, minority and disadvantaged businesses;
7. Requiring prime contractors, when subcontracting is anticipated, to take the steps listed above.

B. Definitions:

1. **General:** A small business is defined as a business which is: independently owned; not dominant in its field of operation; and not an affiliate or subsidiary of a business dominant in its field of operation. The size standards in 13 C.F.R. 121 shall be used, unless the Hualapai Tribe determines their use is not appropriate.

C. Indian Preference Requirements: Projects developed and operated with Federal funds are subject to Section 7(b) of the Indian Self-determination and Education Assistance Act (25 U.S.C. 450e(b)). Section 7(b) provides that to the greatest extent feasible, preference shall be given to Indian organizations and to Indian-owned economic enterprises in the award of all contracts and subcontracts and to Indians in employment and training. Where Indian preference is determined not to be feasible, the Hualapai Tribe shall document the procurement file with the basis for its findings. Indian preference applies not only on-site, on the reservation, or within the Hualapai Tribe's jurisdiction, but also to contracts with firms that operate outside these areas. Indian preference in the solicitation, evaluation, and award process shall be as described in section III above. In no case shall the Hualapai Tribe authorize or provide a preference for Indians, Indian-

owned economic enterprises, or Indian organizations, based on particular tribal affiliation or membership.

1. **Eligibility:** Eligibility for Indian preference shall be established in accordance with the procedure in Federal regulations. An Indian-owned economic enterprise is defined to be a firm which is more than 51% Indian owned, more than 51% Indian managed and more than 51% Indian controlled. If the Hualapai Tribe or its prime contractor determine an applicant ineligible for Indian preference, the Hualapai Tribe or prime contractor shall notify the applicant in writing before contract award, or filling the position or providing the desired training.

2. **Contract clauses and solicitation notices:** Solicitations shall include the following information:

- a. A statement of the applicability of Indian preference to the solicitation;
- b. Information as to whether the Hualapai Tribe maintains lists of Indian-owned economic enterprises and Indian organizations by trade specialty which are available to contractors and subcontractors for use in meeting Indian preference responsibilities;
- c. A requirement that offerors (and their subcontractors, if required by the Hualapai Tribe) provide a statement describing how they will provide Indian preference in subcontracting, training, and employment, including the number or percentage of Indians to be employed and trained;
- d. The Hualapai Tribe's description of the information to be submitted on Indian preference;
- e. The factors that the Hualapai Tribe will use in judging the adequacy of the Indian preference information submitted;
- f. A statement that failure to submit the required Indian preference statements on subcontracting, training, and employment shall be grounds for determination of non-responsibility;
- g. A requirement that each contractor and subcontractor submit a certification and supporting evidence to the Hualapai Tribe whenever it is not feasible to provide Indian preference in subcontracting;
- h. For requests for proposals, the percentage or number of points set aside for Indian preference and the method for allocating these points shall be stated; and
- i. If desired, a requirement that offerors submit a list of core crew employees with their offers, and that contractors and subcontractors are required to provide preference to the

greatest extent feasible by hiring qualified Indians in all positions other than core crew positions.

3. Other Required Clauses: Solicitations, contracts, and subcontracts shall include the following:

a. The clause implementing Section 7(b) of the Indian Self- Determination and Education Assistance Act in connection with the development or operation Hualapai Tribe projects;

b. The grounds for termination of a contract or the imposition of penalties for improper subcontracting or false certification as to subcontracting with Indian enterprises or organizations; and

4. Including Required Clauses: If all required clauses and provisions are not included on Federal forms, then the Hualapai Tribe shall attach any additional clauses or provisions to the Federal forms used in solicitations and contract documents.

5. Inadvertent Mistake: If a prospective contractor or developer has prepared the statement describing how they will provide Indian Preference in the award of subcontracts, but inadvertently has failed to include it in the offer, that contractor or developer may be allowed to cure the deficiency by submitting the statement within five (5) working days of notification of its omission.

6. Monitoring and Remedies: The Hualapai Tribe shall monitor the implementation of Indian preference in its contracts, subcontracts, training, and employment, and take appropriate remedial action (including cancellation of contracts and assessment of penalties) to ensure compliance.

IX. ETHICS IN PUBLIC CONTRACTING

A. General: The Hualapai Tribe shall adhere to the following code of conduct, consistent with applicable federal and tribal law. The prohibitions in this subsection shall apply to employees, officers, or agents during their tenure with the Hualapai Tribe and one year thereafter.

B. Conflict of Interest: No employee, officer or agent of the Hualapai Tribe shall participate directly or indirectly in the selection or in the award or administration of any contract if a conflict, real or apparent, would be involved. Such conflict would arise when a financial, social, economic -or other interest in a firm selected for award is held by:

1. An employee, officer or agent involved in making the award;
2. His/her relative (including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister);
3. His/her partner; or,
4. An organization which employs, is negotiating to employ, or has an arrangement concerning the prospective employment of any of the above.

C. Gratuities, Kickbacks, and Use of Confidential Information: Hualapai Tribe officers, employees or agents shall not solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subcontracts, and shall not knowingly use confidential information for actual or anticipated personal gain.

D. Prohibition Against Contingent Fees: Contractors shall not retain a person to solicit or secure the Hualapai Tribe contract for a commission, percentage, brokerage, or contingent fee, except for bona fide employees.

APPENDIX A

In accordance with Section III. C.4. of the Hualapai Tribe's Procurement Policy, award shall be made under unrestricted solicitations to the lowest responsive bid from a qualified Indian-owned economic enterprise or organization within the maximum total being solicited, if the bid is within "X%" of the total bid price of the lowest responsive bid from the lowest Non-Indian qualified bidder. The factor "X" is determined as follows:

Anticipated Bid Prices:	X is
When the lowest responsive bid will be less than \$25,000	10% of that bid
When the lowest responsive bid will be:	
At least \$25,000, but less than \$100,000	9% of that bid
At least \$100,000, but less than \$200,000	8% of that bid
At least \$200,000, but less than \$300,000	7% of that bid
At least \$300,000, but less than \$400,000	6% of that bid
At least \$400,000, but less than \$1 million	5% of that bid
At least \$1 million, but less than \$2 million	4% of that bid
At least \$2 million, but less than \$4 million	3% of that bid
At least \$4 million, but less than \$7 million	2% of that bid
\$7 million or more	1½% of the lowest responsive bid, with no dollar limit.

The "X" factor shall be disclosed in the solicitation based on an estimate of the anticipated cost of the procurement.

EXHIBIT G

**DISADVANTAGED BUSINESS
ENTERPRISES (DBE)**

DISADVANTAGED BUSINESS ENTERPRISES

The Arizona Department of Transportation has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. Both ADOT and the Hualapai Tribe have received federal financial assistance from the USDOT and as a condition of receiving this assistance the Department has agreed to comply with 49 CFR Part 26.

1. To ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts, the following policies apply:
 - a. Ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
 - b. Create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
 - c. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
 - d. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are counted as DBEs;
 - e. Help remove barriers to the participation of DBEs in USDOT-assisted contracts; and
 - f. Assist in the development of firms that can compete successfully in the market place outside the DBE program.

2. Assurances of Non-Discrimination:

The Contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, sex or national origin in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of 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 state deems appropriate. The Contractor, sub-recipient, or subcontractor shall ensure that all subcontract agreements contain this non-discrimination assurance.

3. Definitions:

- a. Disadvantaged Business Enterprise (DBE): a for-profit small business concern which meets both of the following requirements:
 1. Is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly-owned business, at least 51 percent of the stock is owned by one or more such individuals; and
 2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- b. Socially and Economically Disadvantaged Individuals: any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:
 1. Any individual who is found to be a socially and economically disadvantaged individual on a case-by-case basis.
 2. Any individual in the following groups, members of which are presumed to be socially and economically disadvantaged:
 - i. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

- ii. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - iii. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - iv. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - v. "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
 - vi. "Women;"
 - vii. Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (SBA), at such time as the SBA designation becomes effective.
- c. Joint Venture: an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.
- d. Non-DBE: any firm that is not a DBE.
- e. RACE-CONSCIOUS: a measure or program is one that is focused specifically on assisting only DBEs, including women-owned DBEs.
- f. RACE-NEUTRAL: a measure or program is one that is, or can be, used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

4. Working with DBEs:

The Department works with DBEs and assists them in their efforts to participate in the highway construction program. All bidders should contact the Business Engagement and Compliance Office at the address shown below for assistance in their efforts to use DBEs in the construction program of the Department:

Arizona Department of Transportation
 Business Engagement and Compliance Office
 1135 N. 22nd Avenue, Mail Drop 154A
 Phoenix, AZ 85009
 Phone (602) 712-7761
 FAX (602) 712-8429

5. Applicability:

The Department has established an overall annual goal for DBE participation on Federal-aid contracts. The Department intends for the goal to be met with a combination of race-conscious efforts and race-neutral efforts. Race-conscious participation occurs where the Contractor uses a percentage of DBEs, as defined herein, to meet the contract-specified goal. Race-neutral efforts are those that are, or can be, used to assist all small businesses or increase opportunities for all small businesses. The regulation, 49 CFR 26, defines race-neutral as when a DBE wins a prime contract, is awarded a subcontract on a project without DBE goals, and is awarded a subcontract from a prime Contractor that did not consider the firm's DBE status.

The provisions are applicable to all bidders including DBE bidders.

6. Certification:

Certification as a DBE shall be predicated on:

1. The completion and execution of an application for certification as a "Disadvantaged Business Enterprise".
2. The submission of documents pertaining to the firm(s) as stated in the application(s), including but not limited to a statement of social disadvantage and a personal financial statement.
3. The submission of any additional information which the Department may require to determine the firm's eligibility to participate in the DBE program.
4. The information obtained during the on-site visits to the offices of the firm and to active job-sites.

Applications for certification may be filed with the Department at any time. Both hardcopy submission and online submission is available. For online submissions, the online application process may be accessed through the internet at www.azdbe.org.

DBE firms and firms seeking DBE certification shall cooperate fully with requests for information relevant to the certification process. Failure or refusal to provide such information is a ground for denial or removal of certification.

Arizona is a member of the AZ Unified Certification Program (AZUCP). Only DBE firms that are certified by the AZUCP are eligible for credit on ADOT projects. A list of DBE firms certified by AZUCP is available on the internet at www.azdbe.org. The list will indicate contact information and specialty for each DBE firm, and may be sorted in a variety of ways. However, ADOT does not guarantee the accuracy and/or completeness of this information, nor does the Department represent that any licenses or registrations are appropriate for the work to be done.

The Department's certification is not a representation of qualifications and/or abilities. The Contractor bears all risks that the firm may not be able to perform its work for any reason.

7. General:

Each Contractor shall establish a program that will ensure nondiscrimination in the award and administration of contracts and subcontracts.

Each Contractor shall also designate a full-time employee who shall be responsible for the administration of the Contractor's DBE program.

Agreements between the bidder and a DBE in which the DBE promises not to provide subcontracting quotations to other bidders are prohibited.

8. DBE Subcontractor Payment Reporting:

The Department is required to collect data on DBE and non-DBE participation to report to FHWA on Federal-aid projects. The Contractor is notified that such recordkeeping is required by the Department for tracking DBE participation.

The Contractor shall submit a report on a monthly basis indicating the amounts earned by and paid to all DBEs and non-DBEs working on the project. In addition, the Contractor shall require that all DBE and non-DBE subcontractors verify receipt of payment.

The Contractor shall provide all such required information for the current month by the 5th of the following month. The required information shall be submitted electronically through the Department's web-based payment tracking system (<https://adot.dbesystem.com>).

9. Goals:

The Department has not established contract goals for DBE participation in this contract. Contractors are still encouraged to employ reasonable means to obtain DBE participation. Contractors must retain records in accordance with these DBE specifications. The Contractor is notified that this recordkeeping is important to the Department so that it can track DBE participation where only race-neutral efforts are employed.

10. Crediting DBE Participation:

1. General Requirements:

Only the value of the work actually performed by the DBE can be credited toward DBE participation. Credit is given only after the DBE has been paid for the work performed.

The Contractor bears the responsibility to determine whether the DBE possesses the proper Contractor's license(s) to perform the work.

The Department's certification is not a representation of qualifications and/or abilities. The Contractor bears all risks that the DBE may not be able to perform its work for any reason.

A DBE may participate as a prime Contractor, subcontractor, joint-venture partner with either a prime Contractor or a subcontractor, or as a vendor of materials or supplies. A DBE joint venture partner shall be responsible for a clearly defined portion of the work to be performed, in addition to meeting the requirements for ownership and control.

The dollar amount of work to be accomplished by DBEs, including partial amount of a lump sum or other similar item, shall be on the basis of subcontract, purchase order, hourly rate, rate per ton, etc., as agreed to between parties.

With the exception of bond premiums, all work must be attributed to specific bid items. Where work applies to several items, the DBE contracting arrangement must specify unit price and amount attributable to each bid item. DBE credit for any individual item of work performed by the DBE shall be the lesser of the amount to be paid to the DBE or the prime Contractor's bid price. If the amount bid by the DBE on any item exceeds the prime Contractor's bid amount, the prime Contractor may not obtain credit by attributing the excess to other items. Where more than one DBE is engaged to

perform parts of an item (for example, supply and installation), the total amount payable to the DBEs will not be considered in excess of the prime Contractor's bid amount for that item.

Bond premiums may be stated separately, so long as the arrangement between the prime Contractor and the DBE provides for separate payment not to exceed the price charged by the bonding company.

DBE credit may be obtained only for specific work done for the project, supply of equipment specifically for physical work on the project, or supply of materials to be incorporated in the work. DBE credit will not be allowed for costs such as overhead items, capital expenditures (for example, purchase of equipment), and office items.

If a DBE performs part of an item (for example, installation of materials purchased by a Non-DBE), the DBE credit shall not exceed the lesser of (1) the DBE's contract or (2) the prime Contractor's bid for the item, less a reasonable deduction for the portion performed by the Non-DBE.

When a DBE performs as a partner in a joint venture, only that portion of the total dollar value of the contract which is clearly and distinctly performed by the DBE's own forces can be credited.

The Contractor may credit second-tier subcontracts issued to DBEs by non-DBE subcontractors. Any second-tier subcontract to a DBE must meet the requirements of a first-tier DBE subcontract.

All DBE and non-DBE subcontracting activity must be reported by the Contractor. This includes lower-tier subcontracting regardless of whether or not the DBE is under contract with another DBE.

A prime Contractor may credit the entire amount of that portion of a construction contract that is performed by the DBE's own forces. The cost of supplies and materials obtained by the DBE for the work of the contract can be included so long as that cost is reasonable. Leased equipment may also be included. No credit is permitted for supplies purchased or equipment leased from the prime Contractor or its affiliate(s).

When a DBE subcontracts a part of the work of its contract to another firm, the value of the subcontract may be credited towards DBE participation only if the DBE's subcontractor is itself a DBE and performs the work with its own forces. Work that a DBE subcontracts to a non-DBE firm does not count towards DBE participation.

A prime Contractor may credit the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a USDOT-assisted contract, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services.

2. Police Officers:
DBE credit will not be permitted for procuring DPS officers. For projects on which officers from other agencies are supplied, DBE credit will be given only for the broker fees charged, and will not include amounts paid to the officers. The broker fees must be reasonable.
3. Commercially Useful Function:
As a prime Contractor, a DBE shall perform a significant portion of the contract work with its own work force in accordance with normal industry practices and Subsection 108.01 -Subletting of Contract of the Standard Specifications.

A prime Contractor can credit expenditures to a DBE subcontractor only if the DBE performs a commercially useful function on the contract. A DBE performs a commercially useful function when it is responsible for execution of the work of a contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

A DBE will not be considered to perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, the Department will examine similar transactions, particularly those in which DBEs do not participate.

If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or if the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the Department will presume that the DBE is not performing a commercially useful function.

When a DBE is presumed not to be performing a commercially useful function as provided above, the DBE may present evidence to rebut this presumption. Decisions on commercially useful function matters are subject to review by FHWA, but are not administratively appealable to U.S. DOT.

4. Trucking:

The Department will use the following factors in determining whether a DBE trucking company is performing a commercially useful function. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract on every day that credit is to be given for trucking.

The Contractor will receive credit for the total value of transportation services provided by the DBE using trucks it owns, insures and operates, and using drivers it employs.

The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services.

The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of the transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the contract. Additional participation by non-DBE lessees results in credit only for the fee or commission paid to the DBE as a result of the lease agreement.

Example: DBE Firm X uses two of its own trucks on contract. It leases two trucks from DBE Firm Y and six trucks from non-DBE firm Z. DBE credit would only be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation

services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. With respect to the other two trucks provided by Firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks Firm X receives as a result of the lease with Firm Z.

5. Materials and Supplies:

The Department will credit expenditures with DBEs for material and supplies as follows. If the materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost of the materials or supplies is credited. A manufacturer is defined as a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract, and of the general character described by the specifications.

If the materials or supplies are purchased from a DBE regular dealer, 60 percent of the cost of the materials or supplies is credited. A DBE regular dealer is defined as a firm that owns, operates, or maintains a store or warehouse or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

A firm may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, stone or asphalt without owning, operating, or maintaining a place of business, as provided above, if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement, and not on an ad-hoc or contract-by-contract basis.

Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph and the paragraph above. With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, the Department will credit the entire amount of the fees or commissions charged by the DBE for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE goals, provided the fees are determined to be reasonable and not excessive as compared with fees customarily allowed for similar services. The cost of the materials and supplies themselves may not be counted toward the DBE goal.

DBE credit for supplying paving grade asphalt and other asphalt products will only be permitted for standard industry hauling costs, and only if the DBE is owner or lessee of the equipment and trucks. Leases for trucks must be long term (extending for a fixed time period and not related to time for contract performance) and must include all attendant responsibilities such as insurance, titling, hazardous waste requirements, and payment of drivers.

11. Joint Checks:

1. Requirements:

A DBE subcontractor and a material supplier (or equipment supplier) may request permission for the use of joint checks for payments from the prime Contractor to the DBE subcontractor and the supplier. Joint checks may be issued only if all the conditions in this subsection are met.

2. The DBE subcontractor must be independent from the prime Contractor and the supplier, and must perform a commercially useful function. The DBE subcontractor must be responsible for negotiating

the price of the material, determining quality and quantity, ordering the materials, installing (where applicable), and paying for the material. The DBE subcontractor may not be utilized as an extra participant in a transaction, contract, or project in order to obtain the appearance of DBE participation.

3. The use of joint checks will be allowed only if the prime Contractor, DBE subcontractor, and material supplier establish that the use of joint checks in similar transactions is a commonly recognized business practice in the industry, particularly with respect to similar transactions in which DBE's do not participate.
4. A material or supply contract may not bear an excessive ratio relative to the DBE subcontractor's normal capacity.
5. There may not be any exclusive arrangement between one prime and one DBE in the use of joint checks that may bring into question whether the DBE is independent of the prime Contractor.
6. Any arrangement for joint checks must be in writing, and for a specific term (for example, one year, or a specified number of months) that does not exceed a reasonable time to establish a suitable credit line with the supplier. The prime Contractor may act solely as the payer of the joint check, and may not have responsibility for establishing the terms of the agreement between the DBE subcontractor and the supplier. The DBE must be responsible for receiving the check from the prime Contractor and delivering the check to the supplier. The prime Contractor cannot require the DBE subcontractor to use a specific supplier, and the prime Contractor may not participate in the negotiation of unit prices between the DBE subcontractor and the supplier.

12. Procedure and Compliance:

1. The Civil Rights Office must approve the agreement for the use of joint checks in writing.
2. After obtaining authorization for the use of joint checks, the prime Contractor, the DBE, and the supplier must retain documentation to allow for efficient monitoring of the agreement.
3. Copies of canceled checks must be submitted with the payment information for the period in which the joint check was issued. Certificates of payment must indicate whether or not joint checks were used.
4. The prime Contractor, DBE, and supplier each have an independent duty to report to the Department in the case of any change from the approved joint check arrangement.

Any failure to comply will be considered by the Department to be a material breach of this contract and will subject the prime Contractor, DBE, and supplier to contract remedies and, in the case of serious violations, a potential for termination of the contract, reduction or loss of prequalification, debarment, or other remedies which may prevent future participation by the offending party.

EXHIBIT H

COST BREAKDOWN

FIXED/DEVIATED-ROUTE BUS SERVICE PRICING

Fee per Vehicle Service Hour: \$

Fixed Monthly Fee: \$

CONTRACT PRICE SUMMARY	Start Up Price	Year 1	Year 2	Year 3
WAGES				
FRINGES				
UTILITIES				
SERVICES				
CORPORATE SERVICES				
MATERIALS & SUPPLIES				
INSURANCE				
WORKERS COMP				
FACILITY				
CAPITAL				
OTHER				
SUBTOTAL				
G&A %				
G&A AMOUNT				
FEE %				
FEE AMOUNT				
TOTAL PRICE				

Notes:

1. All pages of Exhibit E shall be completed in full – add additional line items or pages as necessary
2. Explain changes from year to year
3. Submit proposed pricing methodology for Years 2 and 3

WAGES AND BENEFITS DETAILS FOR EACH POSITION TYPE

START UP WAGE DETAIL	NUMBER OF POSITIONS	RATE	NUMBER OF DAYS	HOURS PER DAY	TOTAL WAGE \$	TOTAL HOURS
WAGES						
Position Title						
TOTAL Wages & Hours						

FRINGES	
Payroll Taxes – Variable Ops	
■ FICA	
Management	
Other Paid Expenses	
■ Legal	
■ Corporate Staff Time	
Staff Expense	
■ Other (please list)	
■ Relocation Cost	
TOTALS	

NUMBER OF STAFF NEEDED

POSITIONS	START UP	YEAR 1	YEAR 2	YEAR 3
Operations (Titles)				
Administrative (Titles)				
General Manager				
Assistant General Manager				
TOTAL				

MISC EXPENSES

	START UP	YEAR 1	YEAR 2	YEAR 3
INSURANCE:				
General Liability				
Property Insurance				
Crime Insurance				
Employment Practices				
Claim Payments				
Bid Bond				
Performance Bond				
Payment Bond				
Workers Comp				
Operations Worker				
Maintenance Worker				
Office Worker				
Other				
Dues & Memberships				
Staff Travel Cost				
Subsidiary Staff Travel Cost				
Contract Penalties				
Maintenance, Software Subscription, Licenses / Fees/ Registration				
General Software Yearly Fees				
Support Vehicle License/Registration				
Business Licenses				
Business & Excise Tax				
Reimbursements				
Working Capital				
TOTALS				

EXHIBIT I

EXCEPTIONS

EXCEPTIONS

Print the words "no exceptions"(here) _____ if there are no exceptions taken to any of the terms, conditions, or specifications of these proposal documents or contract.

If there are exceptions taken to any of the terms, conditions, or specifications of the proposal document or contract, they must be clearly stated on a separate sheet of paper attached to this sheet and returned with your proposal.

Note: All potential Offerors are hereby advised that exceptions taken may be considered during the evaluation phase which may affect the final scoring of proposals. Offerors stipulating that the Hualapai Tribe must use their contract or agreement may be determined non-responsive and their Proposal determined unacceptable.

Company Name: _____

Address: _____

(City, State and Zip Code)

Federal Tax ID#: _____

PHONE: _____

FAX: _____

E-MAIL ADDRESS: _____

Authorized Signature: _____ **Date:** _____

EXHIBIT J

MINIMUM INSURANCE REQUIREMENTS

MINIMUM INSURANCE REQUIREMENTS

The following listed (check marked) minimum insurance requirements shall be carried by all contractors and consultants unless otherwise specified in the Hualapai Tribe's solicitation package.

1. Workers' Compensation and Employers Liability as required by statute. Employers Liability coverage is to be carried for a minimum limit of \$100,000.
2. Automobile Liability for limits not less than \$1,000,000 combined single limit for bodily injury and property damage for each occurrence. Coverage shall include owned, non-owned and hired automobiles.
3. Commercial General Liability for limits not less than \$1,000,000 combined single limit for bodily injury and property damage for each occurrence and not less than \$2,000,000 aggregate. Coverage shall include premises and operations liability, blanket contractual, broad form property damage, products and completed operations and personal injury endorsements.
4. Builders Risk or Installation Floater Insurance will be provided by the Owner (excluding earthquake or flood). This insurance shall insure and protect from all insurable risks of physical loss or damage. Contractors and subcontractors will be covered, excluding their own machinery, tools and equipment. The deductible under The Builders Risk or Installation Floater shall be sustained and borne by the Contractor. Losses will be adjusted with and made payable to the Owner and others as their interests may appear.
5. Professional Liability Insurance providing coverage for acts, errors or omissions committed or alleged to have been committed by architects and engineers arising out of the conduct of their professional practice. The coverage shall carry a project limit of \$500,000. The coverage shall have an extended reporting period of 2 years following the date of substantial completion of the project for reporting of claims.
6. Pollution Legal Liability Insurance for limits not less than \$1,000,000 per occurrence (or claims made) and not less than \$1,000,000 aggregate for bodily Injury, Personal Injury and property Damage. This coverage must include any losses arising from transit exposures and also include all costs associated with clean-up, containment, and disposal of any hazardous liquids or materials.
7. Except for workers' compensation, employer's liability insurance and professional liability insurance, the Hualapai Tribe must be named as an additional insured. Certificates of Insurance must be submitted before commencing the work and provide 30 days' notice prior to any cancellation, non-renewal, or material changes to policies required under the contract.
8. Medical Malpractice Liability Insurance for limits not less than \$1,000,000 per occurrence.
9. All coverage furnished by contractor is primary, and that any insurance held by the Hualapai Tribe is excess and non-contributory.

The undersigned certifies and agrees to carry and maintain the insurance requirements indicated above throughout the contract Period of Performance.

(Name of Company)

(Signature)

(Date)

EXHIBIT K

LOBBYING CERTIFICATION

LOBBYING CERTIFICATION

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

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

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq .)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, 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 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

EXHIBIT L

**SUSPENSION & DEBARMENT
CERTIFICATION**

SUSPENSION & DEBARMENT CERTIFICATION

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

The certification in this clause is a material representation of fact relied upon by the Hualapai Tribe. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the Hualapai Tribe, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Offeror agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer.

The Offeror further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Date: _____

Name: _____

Signature: _____

Company
Name: _____

Title: _____

EXHIBIT M

PROMPT PAYMENT TO SUBCONTRACTORS

PROMPT PAYMENT TO SUBCONTRACTORS

Subcontractors are subject to the provisions of 49 CFR §26.29

- A. The Contractor is required to pay all Subcontractors for all work that the Subcontractor has satisfactorily completed, no later than thirty (30) calendar days after the Contractor has received payment from the Hualapai Tribe.
- B. In addition, the contractor is required to return any retainage payments to those Subcontractors within thirty (30) calendar days after the Subcontractor's work related to this contract, is satisfactorily completed.
- C. The Contractor is required to include, in each subcontract, a clause requiring the use of appropriate arbitration mechanisms to resolve all payment disputes.
- D. The Hualapai Tribe will not pay the Contractor for work performed unless and until the Contractor ensures that the Subcontractors have been promptly paid for the work they have performed under all previous payment requests, as evidenced by either canceled checks (submitted with contractor invoice at the completion of the contract) and the Contractor's signature below that it will comply with the prompt payment requirements.
- E. Failure to comply with these prompt payment requirements is a breach of the Contract, which may lead to any remedies permitted under law, including, but not limited to, Contractor suspension and/or debarment.

Date: _____

Name: _____

Signature: _____

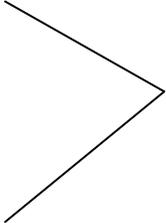
Company Name: _____

Title: _____

EXHIBIT N

PROPOSED MINIMUM SERVICE PERFORMANCE STANDARDS

PROPOSED MINIMUM SERVICE PERFORMANCE STANDARDS

PERFORMANCE MEASURES	LIQUIDATED DAMAGES
<p>Missed Trip is defined as: (A 'trip' is defined as a 'start to an end')</p> <ul style="list-style-type: none"> If a bus does not physically run a scheduled trip. If a bus is so late on a trip, so as to cause Dispatch to re-route any bus to put a bus back on schedule. If a response to a replacement bus is not within 30 minutes from notification of need, to bus leaving garage. 	 <p>\$200 per unexcused missed trip</p>
<p>Late Arrival</p>	<p>\$50 per late arrival (more than 5 minutes late) at pre-determined designated time-points (nodes), based on computerized (software) reporting, video verification, or report of Tribal staff personnel.</p>
<p>Early Arrival and Departure</p>	<p>\$100 per early trip incident, defined by arriving at, or departing from, a time-point greater than 1 minute or more but less than 3 minutes ahead of schedule at any time point (node). \$300 Liquidated.</p> <ul style="list-style-type: none"> Report verified by Hualapai Tribe Transit Staff Report by transit passenger with verification.
<p>Customer Complaints</p>	<p>\$150 per unexcused (valid) customer complaint in excess of 30 per month. Customer complaints will be based on calls to Dispatch and Tribal Administration or Transit staff, or entered into a computerized software database, or from video.</p>
<p>Safety Inspection Report Failure</p>	<p>\$650 per failure incident</p>
<p>Accidents: Defined as contact with an object, vehicle, or person; or injury of a passenger that was preventable</p>	<p>\$1200 per preventable accident</p>
<p>GFI Data Entry</p>	<p>\$25 per incident for general GFI data entry \$625 per incident that NTD data is entered</p>
<p>Buses Left Running Unattended</p>	<p>\$50 per incident – Any bus left running unattended for over 15 minutes</p>
<p>False Reporting of Bus as an Unsafe / Needs Maintenance</p>	<p>\$450 per incident – any bus reported as unsafe or needing maintenance that cannot be supported by maintenance examination, which requires a bus to be taken out of service on false pretenses</p>

The Hualapai Tribe will apply liquidated damages as the above performance measures impact the Tribe and ridership and cause damage. Documented explanation for any measures and incidents by the Contractor shall be forwarded to the Hualapai Tribe for a review within 30 days of request. Failure to provide the response to the Hualapai Tribe within 30 days of the request will result in all fines indicated above being applied to the invoice. The Hualapai Tribe can accept or refuse at their discretion, the explanations given.