

PARTA

Standard Federal Contractual Terms and Conditions for Contracts under \$25,000

This agreement, made this _____ day of _____, by and between PARTA, a political subdivision of the State of Ohio created pursuant to Section 306.30 through 306.71 of the Ohio Revised Code, 2000 Summit Road Kent, Ohio 44240, hereinafter referred to as PARTA, and _____, duly organized under the laws of the State of _____ and having its principal place of business at _____ hereinafter to be referred to as CONTRACTOR.

The terms and conditions applicable to this procurement are contained in this document in contract form. The CONTRACTOR will be required to comply with all of the following terms and conditions listed in the table of contents and described in this document.

By signing below, the CONTRACTOR acknowledges and agrees to comply with all of the terms and conditions listed and described in this document.

Signature of Authorized Individual: _____

Name of Authorized Individual: _____

Title: _____

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1. Independent Contractor

1.1. CONTRACTOR, for purpose of this agreement shall be considered as an independent CONTRACTOR.

1.2. CONTRACTOR agrees to maintain conformance with the following federal clauses during the time period that this certification is in effect, and inform PARTA within 10 days of any failure to comply with the provisions listed below.

2. Certification Period

2.1. This certification shall be valid for one calendar year from the date of execution, covering all purchases from the CONTRACTOR during that time period.

3. Contractor's Obligation

3.1. The general obligation of the CONTRACTOR shall be to transfer and deliver the goods and services specified in each quote, or purchase order in complete accordance with the terms and conditions.

4. Buyer's Obligation

4.1. The general obligation of PARTA shall be to accept conforming delivery and conforming goods and services and to pay in accordance with the terms and conditions.

5. Subcontract Approval

5.1. Any subcontract the CONTRACTOR may wish to enter into must be approved by PARTA prior to the execution of the subcontract, and all the requirements of these terms and conditions must be included within said subcontracts to gain approval of PARTA.

6. No Obligation by the Federal Government.

6.1. PARTA 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 PARTA, CONTRACTOR, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

6.2. 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.

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

7.1. 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.

7.2. 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.

7.3. 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.

8. Access to Records

8.1. The following access to records requirements apply to this Contract:

8.1.1. Since *PARTA* is a local government and is a 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.

8.1.2. 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.

8.1.3. The CONTRACTOR agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case 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).

8.1.4. 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
<u>II Non State Grantees</u>	Yes ³	Those imposed on	Yes	Yes	Yes	Yes

a. Contracts below SAT (\$100,000) b. Contracts above \$100,000/Capital Projects	Yes ³	non-state Grantee pass thru to Contractor	Yes	Yes	Yes	Yes
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Sources of Authority:

¹ 49 USC 5325 (a)

² 49 CFR 633.17

³ 18 CFR 18.36 (i)

9. Federal Changes

9.1. 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.

10. Civil Rights

10.1. The following requirements apply to the underlying contract:

10.1.1. 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.

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

10.1.2.1. 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.

10.1.2.2. 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.

10.1.2.3. 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.

10.1.3. 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.

11. Termination for Convenience

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

12. Termination for Default

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

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

13. Opportunity to Cure

13.1. PARTA in its sole discretion may, in the case of a termination for breach or default, allow the CONTRACTOR ten (10) business days 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

13.2. If CONTRACTOR fails to remedy to PARTA'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 PARTA setting forth the nature of said breach or default, PARTA 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 PARTA from also pursuing all available remedies against CONTRACTOR and its sureties for said breach or default.

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

14. Disadvantaged Business Enterprises

14.1. 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 set yearly and is on file with PARTA's Controller.

14.2. 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 PARTA deems appropriate. Each subcontract the CONTRACTOR signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

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

14.4. 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 PARTA. In addition, is required to

return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

14.5. The contractor must promptly notify PARTA 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 PARTA.

15. Incorporation of Federal Transit Administration (FTA) Terms

15.1. The provisions of this contract 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 PARTA requests which would cause PARTA to be in violation of the FTA terms and conditions.

16. Energy Conservation:

16.1. 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.

17. Recycled Products:

17.1. 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.

18. Indemnification

18.1. To the fullest extent permitted by law, the CONTRACTOR shall, at his sole cost and

expense, indemnify, defend, satisfy all judgments, and hold harmless PARTA and its agents, representatives, and employees from and against all claims, actions, judgments, costs, penalties, liabilities, damages, losses and expenses, including but not limited to attorney's fees and worker's compensation benefits arising out of or resulting from the performance of this contract, provided that any such claims, action, judgment, cost, penalty, liability, damage, loss or expense is:

- 18.1.1.** attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the goods) including the loss of use resulting therefrom, and
- 18.1.2.** Caused in whole or in part by a negligent act or omission of the CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them, or anyone to whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.
- 18.2.** Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.
- 18.3.** In any and all claims against the PARTA or any of its agents, representatives or employees by any employee of the CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONTRACTOR or any subcontractor under worker's compensation acts, disability acts or other employee benefits acts. As between CONTRACTOR and PARTA, CONTRACTOR waives its immunities under O.R.C. Chapter 4123. (Workers Compensation)
- 18.4.** PARTA will notify CONTRACTOR within five working days of it making a claim against that CONTRACTOR or within five working days of PARTA learning that a third-party has made a claim against the CONTRACTOR.
- 18.5.** No provision of this paragraph shall give rise to any duties on the part of the PARTA or

its agents, representatives or employees.

19. Retention of Records

19.1. CONTRACTOR shall retain all records pertaining to this contract for a minimum of three (3) years from the date of all services to PARTA and release of all retainage by PARTA to CONTRACTOR.

20. Funding Agencies

20.1. The Federal Transit Administration is the federal agency through which funds may have been granted to PARTA in support of this project. It is abbreviated "FTA" in this document and is located at:

Suite 320
200 West Adams Street
Chicago, Illinois 60606
(312) 353-2789

20.2. The Ohio Department of Transportation is the state agency through which funds may have been granted to PARTA in support of this project. It is abbreviated "ODOT" in this document and is located at:

1980 West Broad Street
Columbus, Ohio 43223
(614) 466-8955

20.3. Copies of the applicable FTA Part 1 and ODOT grant contracts and PARTA Tax Exemption Certificates will be provided to the successful CONTRACTOR upon request.

21. Worker's Compensation, Payroll Taxes

21.1. CONTRACTOR is responsible for all payroll taxes, including worker's compensation, and may be required to provide proof of current payment and coverage.

22. Minimum Insurance Coverage Requirements

22.1. For the duration of the contract, the contractor is required to procure and maintain insurance against claims for injuries to persons or damage to property which may arise.

22.2. The contractor shall have commercial general liability limits of \$1,000,000 per occurrence for bodily injury, personal injury, and property damage. The minimum

general aggregate shall be \$1,000,000.

22.3. The contractor shall furnish *PARTA* with certificates of insurance naming *PARTA*, its officials, agents, employees and volunteers as an additional insured, if required by *PARTA*.

22.4. The coverages described above shall contain a 30 day written notice of cancellation, non-renewal, and/or material changes provision addressed to *PARTA*.