

CITY OF PENDLETON

REQUEST FOR PROPOSAL

Operations and Maintenance of the
Pendleton Dial-A-Ride and
Deviated Route Transit System



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Questions seeking clarification about this Request for Proposals must be submitted no later than 3:00 pm on *May 16, 2023*. No questions will be accepted or answered after this date. See page 3 for the anticipated timeline.

REQUEST FOR PROPOSALS

Sealed proposals for Operations and Maintenance of City of Pendleton Dial-A-Ride and Deviated Route Transit System, will be received at the City of Pendleton, Finance Department, Pendleton, OR 97801. The work consists of coordinating, managing, and controlling all activities necessary to operate and maintain all aspects of the City of Pendleton Dial-A-Ride and Deviated Route Transit System program.

The Request for Proposal document may be examined or obtained at the City of Pendleton, Attn: Linda Carter, 500 SW Dorion Ave., Pendleton, OR 97801 or by downloading at: www.pendleton.or.us under the category "Request for Proposals".

Requests for additional information or clarifications must be made in writing by email to Linda.Carter@ci.pendleton.or.us no later than **3 pm on May 16, 2022**. Sealed proposals must be submitted to and received by Linda Carter, Finance Director, no later than 3:00 pm local time on **Thursday, May 19, 2022** at City of Pendleton, City Hall, 500 SW Dorion Ave., Pendleton, OR. The sealed proposals will be publicly opened after closing time and date at City of Pendleton, City Hall, 500 SW Dorion Ave., Pendleton, OR 97801.

The City of Pendleton encourages small, minority- and women-owned businesses to submit proposals. For more information, contact Linda Carter, (541) 966-0331, TDD (541) 966-0230

CITY OF PENDLETON, OREGON

Advertise: *April 30, 2022* East Oregonian
April 29 2022 City of Pendleton Website
April 29, 2022 Daily Journal of Commerce, Portland, OR

Summary of the Anticipated Timeline for Proposal, Initiation, and Completion of Work

Note: All times are local, Pacific Time.

Advertise	East Oregonian City Website Daily Journal of Commerce	<i>April 30, 2022</i> <i>April 29, 2022</i> <i>April 29, 2022</i>
Mail RFP to potential proposers		<i>May 4, 2022</i>
Pre-Proposal Questions due	Finance Dept.	<i>May 16, 2022</i>
Proposal Due Date/Opening	City Hall	<i>May 19, 2022 3 pm</i>
Proposal Evaluation Period		<i>May 20-24, 2022</i>
Presented to Council to Award Contract		<i>June 7, 2022</i>
Award Contract	City Hall	<i>June 10, 2022</i>

BACKGROUND AND SCOPE OF WORK

1. Background.

1.1 The City of Pendleton has a population of about 17,000, located in Eastern Oregon, Umatilla County. The City of Pendleton has a Dial-A-Ride service and a Deviated Route service that operate within the City limits and the Urban Growth Boundary.

The Dial-A-Ride Service provides daily rides for \$1 per one way ride with a 24 hour advance notice. The Dial-A-Ride program also provides an inter-park program to transfer participants in City summer day camps from one location to another. All programs require wheelchair accessible rides.

The City of Pendleton has a Deviated Route service called “Let’er Bus Transit”. This bus route is for the general public; all are welcomed to ride under the following guidelines. The routes will run two different routes, 11 times weekdays between 7 am and 6:30 pm. The Routes may vary and/or have reduced or increased run times. The routes will not operate on federal holidays.

The North-East route will run from Walmart out to Riverside and back through the North Hill neighborhood. Stops on the North-East route will include City Hall, Main Street, state offices on Emigrant, the high school and BMCC. The South-West route will run from Walmart south through the McKay, Sherwood and South Hill neighborhoods. Stops will include St. Anthony hospital, Southgate Medical Center and the St. Anthony’s physical therapy office. Both transit bus routes have stops to the Pendleton High School, the Aquatic Center, and BMCC.

Route deviation requests up to half a mile off the route and “Flag Stops” require a 24 hour advance phone notice Monday through Friday during open dispatch hours. (“Flag Stops” are designated stops that are not stopped at daily without an advance notice request. Flag stops include the Airport and Grecian Heights.) The dispatch phone line number is _____ and is available between 8 am and 5 pm Monday through Friday. Let'er Bus is free of charge. Riders must be at least 9 years old to ride alone. Riders age 8 and younger must be accompanied with an older companion rider.

2. Scope of Work.

2.1. The successful Contractor shall provide operation and maintenance services for the City of Pendleton’ Dial-A-Ride and Deviated Route transit services, including the Pendleton Dial-A-Ride service, the Inter-Park day camp service, the Aquatic Center service and the Deviated Route service. Transit service levels may increase or decrease during the term of this contract, depending upon available funding. The contract will be administered through the City of Pendleton Finance Department. The draft services contract, Attachment A, sets forth the statement of work in greater detail.

2.2. City will provide up to 9 or 10 wheelchair accessible revenue vehicles for providing services. The current fleet vehicles are described as follows: two 2008 Dodge modified mini-vans, one 2014 Dodge modified mini-van, one 2015 Dodge modified mini-van, two 2019 Dodge modified mini-vans, one 1999 Ford 14 passenger bus, one 2009 Ford 14 passenger bus, one 2019 Ford 22 passenger bus and one 2021 Ford 22

passenger bus. The contractor will provide all minor maintenance to the City owned vehicles including oil, filters, lube changes, and cleaning of the vehicles inside and out at its expense.

- 2.3. The taxi service subsidized rides are not a part of this bid proposal due to the City Franchise Ordinance requirements for taxi operations.
- 2.4. The proposal will be valid for sixty (60) days from the date of proposal opening.

PROPOSAL PROCESS

3. The City follows Oregon Revised Statutes Chapters 279A and 279B and pertinent Federal Transit Administration regulations in the procurement of transit services. In some cases, the City has more restrictive limits than State law. Under Oregon and Pendleton law, the proposal process is as follows:
 - 3.1. City staff develops a procurement calendar, specifications, advertisement, etc. Any party interested in a request for proposal document may view a copy of the request for proposal, or may request a copy, free of charge, from Linda Carter, Finance Director, Pendleton Finance Director 500 SW Dorion Ave., Pendleton, OR 97801, 541-966-0331 (phone), 541-966-0352 (fax) Linda.Carter@ci.pendleton.or.us. All proposers will be required to provide contact information (i.e., contact name, address, phone, FAX number, and email address). Any addenda will be emailed to the email address provided by the proposer.
 - 3.2. City staff will mail or email the request for proposal document to the interested proposer list and advertise the request for proposal.
 - 3.3. Linda Carter, Finance Director, will accept written questions seeking clarification about the proposal requirements, and will accept any exceptions to specifications or contract requirements, until **May 16, 2022**. All questions, including clarification of or exception to specifications, questions regarding proposal submittal instructions, questions or exceptions regarding contract terms, and questions or exceptions to the basis of award must be received by this date and time. No questions about the request for proposal document or the proposal process will be accepted after this date and time.
 - 3.4. Responses to this solicitation shall be made solely at the proposer's expense.
 - 3.5. Written answers to all questions will be sent to proposers by email as an addendum by **May 17, 2022**.
 - 3.6. Sealed Proposals must be submitted to Linda Carter, 500 SW Dorion Ave, Pendleton, OR 97801, no later than **3:00 p.m. May 19, 2022**. Proposals received after this date/time shall be marked with the date/time received and held unopened by the City of Pendleton.
 - 3.7. Immediately after the closing time and date, proposals will be publicly opened

and read at the time location listed in Section 3.6. The proposal tabulation will include only the names of the proposers submitting proposals and will be publicly available immediately after the proposal opening. Proposal documents will not be available for review by the public for two days.

- 3.7.1. At any time prior to the due date for the submission of proposals, a proposer may request to modify or withdraw the proposal in the following fashion:
- 3.7.2. Modification: The proposer may submit a written modification in accordance with the instructions for submitting a proposal as identified in this request for proposals. Any modification is required to have a date and time placed on it by the proposer, and the words “This modification amends and supersedes the prior Offer” written on the modification.
- 3.7.3. Withdrawal: A proposer may request to withdraw a proposal by filing such request in writing, on the letterhead of the proposer, signed by a person authorized to do so. Alternatively, the proposer may request to have a proposal withdrawn by making the request in person, producing appropriate identification and evidence that the person is authorized to withdraw the offer. The City will void the time and date stamp on the offer envelope and return the proposal to the proposer unopened.
- 3.7.4. A withdrawal will not preclude the submission of another proposal by the proposer prior to the time and date set for the opening of proposals.
- 3.7.5. After proposals have been opened, proposals may not be withdrawn by the proposer for a period of sixty (60) days and at no time after award of contract. Proposals may not be modified after they have been opened unless the selection process identified in this RFP allows proposal modification.
- 3.8. Following the public proposal opening, staff will review the proposals submitted for completeness and compliance with the proposal requirements. All proposals shall be evaluated based on the criteria identified in this document in Basis of Award of Contract. The City reserves the right to waive irregularities and minor informalities if it is in the public interest to do so.
- 3.9. Staff will send a letter stating the City’s intent to award a contract under this RFP to all proposers submitting a proposal. Proposers will have six (6) calendar days to protest; any protest filed after the protest period will be late and will not be considered. To file a protest, a proposer must submit the protest in writing to the person named in Section 3.6 above and state the reasons for the protest. The City Manager will review any protest and make a decision as to the award of the proposal.
- 3.10. The successful proposer(s) will be expected to execute a contract for the Operations and Maintenance of the Pendleton Dial-A-Ride and Deviated Route Transit Systems immediately after being notified of award. A sample contract form has been included with this proposal as Attachment A. A proposer that has not protested the City’s terms and conditions in Attachment A by 3:00 pm, PDT of the last day of the protest period waives the right to modify those terms and conditions after the award decision.

- 3.11. The City reserves the right to cancel this procurement and/or reject all proposals if it is in the best interest of the City to do so in accordance with ORS 279B.100. If the City cancels this procurement after proposals have been submitted, the proposals will be returned, but the City will keep a list of the proposals received.
 - 3.11.1. The City of Pendleton reserves the right to reject the offer of any proposer who previously failed to perform properly to the satisfaction of the City of Pendleton, or complete on time an agreement of a similar nature, or to reject the offer of any proposer who is not in a position to perform such an agreement satisfactorily as determined by the City of Pendleton.
 - 3.11.2. The City reserves the right to accept an offer and award a contract to a responsible proposer, to postpone the acceptance of the offer and the award of the contract for a period not to exceed thirty (30) calendar days, or to reject any and all offers received, and further advertise the project for offers.
 - 3.11.3. The City may reject any offer not in compliance with all prescribed public purchasing procedures and requirements and may reject for good cause any or all offers upon finding of the City it is in the public interest to do so.

BASIS OF AWARD OF CONTRACT

4. All proposals received and determined to be complete will be evaluated and scored by a City Evaluation Committee according to the criteria set forth below. Proposals must pass Criteria I and II and receive scores of at least 60% for each of Criteria III – VII to be considered. An evaluation team from the City of Pendleton will individually evaluate and score the proposals based on the following criteria. Proposals not meeting the thresholds described above will not be considered.

Following the individual evaluation, the City Evaluation Committee will meet to compare rankings. The highest ranked proposer will be named the apparent successful proposer. If the City and the apparent successful proposer are unable to finalize a contract, the City reserves the right to negotiate and award a contract with the next highest ranked proposer.

I. Financial Ability (Pass/Fail) _____			
II. References (Pass/Fail) _____			
Criterion	Maximum Points	Score	Percentage of Maximum
III. Qualifications	10		
IV. Facilities and Maintenance Program	20		
V. Personnel	15		
VI. Operations	20		
VII. Price Proposal	35		
	100	TOTAL	

In Sections I - VII below, attach responses separately (refer to each Index Number in your responses),

4.1. SECTION I: FINANCIAL ABILITY

<u>Index Number</u>	<u>Required Components</u>
I-1	Provide information on available operating capital and its source, the amount of any financing proposed for this operation and its source, and terms of repayment. In the event funds are to be borrowed to finance any portion of the operations of service, a binding letter-of-intent from the bank or other lending agency must be attached, indicating the minimum amount that will be loaned and any applicable percentage rate. The letter-of-intent may contain the qualification that the loan will only be consummated upon award of the Contract by City.
I-2	Provide detailed information regarding litigation, liens or claims arising from litigation in excess of \$100,000 against a participant in the proposal.
I-3	Indicate if any participants in the proposal have been involved in bankruptcy proceedings as a debtor. If yes, state date, court of jurisdiction, amount of liabilities and amount of assets. Provide this information on a separate statement with the heading "BANKRUPTCY INFORMATION."
I-4	<p>Provide audited financial statements for the most recently completed fiscal year reflecting your current financial condition, including a full and detailed presentation of the true condition as of December 31, 2021, of the proposer's assets, liabilities, and net worth. In the event that proposer's fiscal year is reported on a basis other than calendar year or the audited financial statements have not been prepared for 2021, the latest audited annual financial report along with a current unaudited financial report (balance sheet, income and cash flow statements) will be an acceptable response.</p> <p>The financial statement and related documents must set forth the financial status of that entity, subsidiary, division, subdivision, or unit which will actually perform the services described in this RFP. It is acceptable to provide an audited financial statement for the last year for the parent corporation, as long as a complete current financial report for the operating entity that will perform the service is also included.</p>
I-5	Provide bank credit references - A minimum of two (2) are required. Include name, title, and current telephone number.
I-6	At all times during the Term of the Lease, Contractor shall maintain with an A rated admitted carrier in the state of Oregon, Auto Physical Damage coverage, Comprehensive & Collision on the City of Pendleton Owned vehicles and Contents of not less than \$100,000 per vehicle and a deductible no higher than \$1,000 each. Additionally, Contractor shall provide auto liability coverage of \$2,000,000 per Occurrence \$3,000,000 Aggregate for bodily injury, personal

injury or property damaged for each motor vehicle. The Contractor shall name City of Pendleton as an additional Insured and Loss Payee, and ODOT Public Transit as an additional Insured and Loss Payee, on said policy and promptly provide a certificate of said insurance coverages to City. Contractor will provide written notice of any cancellation of insurance 30 days prior to cancellation.

4.2. SECTION II: REFERENCES

<u>Index Number</u>	<u>Required Components</u>
II-1	<p>List two (2) agencies for which the proposer has performed dial-a-ride and deviated route public transit and related services similar to the work described in Section 2 of the RFP for transit systems of similar size during the past seven years, starting with the most recent experience.</p> <p>Include contact person, current telephone number, email address, type of services provided, dates of service and the name of the agency.</p>

4.3. SECTION III: QUALIFICATIONS

III -1	<p>How many years has the proposer been providing transit services of any kind? ___ years.</p> <p>Out of the total indicated, how many years of experience has the proposer had in providing dial-a-ride general and deviated route transit service.</p>
III-2	<p>Describe your previous experience on dial-a-ride and deviated route service (compliant with FTA rules and regulations) of similar size, scope and complexity as that described in Section 2 of the RFP.</p>
III-3	<p>List significant accomplishments in contributing to the success of similar transit-related services. Be specific as to the nature of and timeframe for these accomplishments, and the agency for which they were performed.</p>
III-4	<p>Describe why proposer should be selected to perform services under this Contract. Indicate any new or creative ideas that would provide the City with a high quality, safe, efficient, sustainable, and responsive operation.</p>
III-5	<p>Has the proposer been cited or fined over the past five years by any regulatory agency for improper maintenance or for accidents caused by improper maintenance? YES _____ NO _____ If yes, provide a description of the cause of each such citation or fine and remedial action taken. Also name the agency(ies) associated</p>
III-6	<p>Has the proposer been terminated for breach of contract during the past 10 years by any agency? YES _____ NO _____ If yes, provide a detailed description of the circumstances for such termination, the date of termination and the name and contact information of the public agency.</p>

- III-7 Describe how you have incorporated sustainability practices into previous and existing operations and maintenance and operations programs.

4.4. SECTION IV: FACILITIES AND MAINTENANCE PROGRAM

- IV-1 Describe the proposed operations and maintenance facility, including the location, size, security, vehicle cleaning (interior and exterior) capabilities, fueling system(s), vehicle servicing capabilities, vehicle storage areas and other general characteristics. Include any modifications that the proposer intends to make to the facility to ensure efficient service delivery and compliance with the terms of the Contract.
- IV-2 Provide a detailed description of the proposer's preventive maintenance program for all revenue vehicles. This should explain how the program is operated and the qualifications and experience of the mechanics and supervisors on the revenue vehicles utilized in providing the service required in this RFP, including but not limited to a detailed description of the mechanics' ability to mitigate major mechanical failures diagnostically in lieu of costly repairs. Attach your maintenance handbook.
- Describe, operationally and financially, proposer's approach for repairs performed by a subcontractor. Describe the repairs or services the proposer would have performed by subcontractors and describe the location where the
- IV-3 Specify the number, model, model year, and make of each non-revenue vehicle such as service vans or driver shuttles that will be provided by the proposer
- IV-4 Describe the interior and exterior vehicle cleaning program, including equipment and a staffing plan.

Index
Number

SECTION V: PERSONNEL

- V-1 Identify and describe in detail the experience and qualifications of the principal management staff who will be assigned to the contract, including the Operations Manager, Maintenance Coordinator, and on-site Training/Safety Officer, as appropriate. Include resumes for the principal management staff.
- V-2 Describe the field supervision approach including staffing levels, coverage plan, and performance standards.

- V-3 Describe in detail the recruiting, hiring, incentive, and initial and on-going training programs for personnel including but not limited to supervisors, drivers, and dispatchers. This description should include the steps to be taken to evaluate and improve employee skills, to enhance service quality, and to promote safety and customer service in the performance of work and should include the number of hours and types of training to be provided.
- V-4 Describe the staffing plan to ensure that staffing levels will meet the requirements of this RFP. Identify (by title, position, or job classification) the number of personnel the proposer intends to utilize in providing the services specified in this RFP. This plan should demonstrate that the proposer will be able to provide a sufficient number of qualified personnel to operate and maintain the services required. These positions may include the following positions: Operations Manager, Trainer/Safety Officer, Maintenance Coordinator, Drivers, Mechanics, and Dispatchers. A sufficient number of full-time, part-time, and relief drivers shall be employed and properly trained to ensure coverage for all scheduled service hours.
- V-5 The proposer shall describe how it will address unforeseen service delays such as accidents or other events which result in a route delay of more than 15 Include a list of proposed subcontractors, if applicable, including company name, address, phone number, identification of project personnel and description of the duties for which each is responsible.

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Number

SECTION VI: OPERATIONS

- VI-1 Demonstrate the proposer's understanding of the contractual undertaking. What do you think your role and obligations are in this project?
- VI-2 Describe how the proposer will:
- a. Achieve continuous operation of the transit services;
 - b. Minimize delays and prevent missed service;
 - c. Most efficiently assign revenue vehicles to specific routes.
- Include any strategies or concepts of the proposer for enhancing service quality, reducing costs, or otherwise improving the productivity or performance of the services provided.
- VI-3 Describe the proposer's internal communications network including methods of communicating instructions to and among the Operations Manager, Trainer/Safety Officer, Maintenance Coordinator, Field Supervisors, dispatchers, and drivers.
- VI-4 Discuss the proposer's approach to customer relations, including the method of handling complaints, compliments and suggestions from the public.
- VI-5 Discuss how Disadvantaged Business Enterprise participation will be achieved.

VI-6

Describe the proposer's program for assuring safe and secure transit operations and compliance with Federal and State safety and security laws and regulations, including but not limited to the most current Federal Transit Administration regulations, and a description of the proposer's safety record over the past five years (including an identification of any safety violations).

Submit a copy of proposer's pre-trip vehicle inspection form.

Index
Number

SECTION VII: PRICE PROPOSAL

- VII-1 Proposers shall submit price proposals in accordance with Exhibit C of this RFP.

The City will evaluate pricing by taking the rates that proposer provides and applying to the City's average monthly cost for the past calendar year in each category in Exhibit C of this RFP.

The lowest price proposal receives the maximum number of points, with higher price proposals receiving a proportional share of the maximum. For example, three proposals and three prices: A=\$40,000, B=\$56,000, and C=\$70,000. The RFP states 35 points maximum, which go to proposer A; proposer B receives 25 points $((40,000/56,000)*35)$; proposer C receives 20 points $((40,000/70,000)*35)$.

CONTRACT REQUIREMENTS

5. Proposer must accept the terms included in contract and exhibits attached with this Request for Proposals as part of the contract. If a proposer is exempt from a particular term due to a statutory or regulatory exception or exemption, whether the exception or exemption applies to the contract matter, the type of work, or the proposer, the proposer will be considered to have met the requirements of that term. Any proposer who does not agree with a term of this contract must file an exception to requirement notice as identified in section 3.3 above.

INSTRUCTIONS FOR SUBMITTING THE PROPOSAL

6. Submittal Instructions

- 6.1. The proposal must be submitted as identified in the section labeled "Form of Proposal" below.
- 6.2. Mail or deliver one (1) signed original proposal in a sealed envelope to the address in Section 3.6.
- 6.3. Proposals must be plainly marked in the lower left-hand corner of the envelope as follows:

Item: **Dial-A-Ride and Deviated Route Proposal**

Time: 3:00 pm

Date: May 19, 2022

Proposer Name: _____

- 6.4. Facsimile and email offers will not be accepted for this project.
- 6.5. The proposal must be signed. Submission of a signed proposal will be interpreted to mean that proposer has hereby agreed to all terms and conditions set forth in all of the sheets which make up this solicitation document.

FORM OF PROPOSAL

7. The proposal must be organized in the following order:
 - 7.1. A signed cover letter identifying the organization submitting the proposal, stating the proposer's desire to make an offer, and contact person, along with a table of contents of the proposal.
 - 7.2. Responses to the Basis of Award criteria pages 8-13 in the order presented above.
 - 7.3. Start-Up Plan
 - 7.3.1. A description of proposer's plan for assuming responsibility for the services specified in this RFP, identifying the issues that will be to be addressed in the start-up, and the proposer's plan and timeframe for addressing these matters.
 - 7.3.2. Equal Employment Opportunity Plan, which includes persons with disabilities and veterans with disabilities
 - 7.4 Offer/Certifications/Offer Commitment (page 16) and Proposer Identification (page 17)
 - 7.5 Price Proposal
 - 7.4.1. Proposer must submit a price proposal in accordance with Exhibit C of this RFP.
 - 7.4.2. For providing services under the contract resulting from this RFP, proposer shall provide a dispatch monthly rate and an hourly rate for the drivers and an hourly rate for cleaning fleet vehicles and bus shelters. Proposer may not mark-up parts or outside services for repairs that the City will be responsible for per the contract.

OFFER/CERTIFICATONS/OFFER COMMITMENT

I propose to complete the work requested in the City of Pendleton Request for Proposal. By signing, I hereby agree to the certifications identified in Exhibit A and B of this RFP and will sign those certifications, if awarded the contract.

Proposer Name and Signature:

PROPOSAL ADDENDA

Proposer acknowledges receipt the contract and addendum along with Exhibits A-C.

CONFIDENTIALITY STATEMENT

The City of Pendleton abides by the public records laws of the State of Oregon. As such, proposal documents are generally considered to be a matter of public record after the contract for work has been awarded. Information in a proposal may or may not be considered to be exempt from public disclosure based on the following:

- Trade secrets as identified in ORS 192.501;
- Information submitted in confidence as identified in ORS 192.502.

To the extent of the law, the City will endeavor to keep information confidential if the proposer marks the subject information as confidential.

Notice of Solicitation under FTA Assisted Program

The City of Pendleton, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders/proposers that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to the invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Proposer Identification

Business Name:

Address:

City/State/Zip:

Phone: _____ **FAX:** _____

Primary Contact - Name and Printed/Title:

The undersigned has the authority to commit the proposer to the proposal as identified in these documents and certifies that this information is true and accurate.

This organization is a ___ Corporation of the State of _____
___ Partnership
___ Sole Proprietorship
___ Other (specify _____)

_____, 2022.

By: _____ Print: _____

Title: _____

**AGREEMENT BETWEEN (CONTRACTOR)
AND CITY OF PENDLETON**

I. PARTIES:

This Agreement is entered into **July 1, 2022**, between the City of Pendleton, Oregon, an Oregon Municipal Corporation, "City," and (Contractor) a (STATE) Corporation, "Contractor."

II. RECITALS:

WHEREAS, City desires to continue its program of providing limited transportation assistance to its senior and disabled citizens and general public transit service; and

WHEREAS, the Contractor desires to provide reasonable transportation services to Pendleton senior and disabled citizens and general public transportation service.

III. AGREEMENT:

NOW THEREFORE, the parties agree as follows:

- A. Term of Contract. This contract shall become effective **July 1, 2022** and shall continue in full force an effect through **June 30, 2024**.
- B. The Contractor agrees as follows:

OPERATIONS:

- 1. Service is provided within the City of Pendleton Urban Growth Boundary, and participants which live within 7 miles radius of the City limits by petition approved by the Finance Director. Any area served by another transit agency or district outside of the Urban Growth Boundary is not eligible for service.
- 2. Continue to permit service animals to accompany individuals with disabilities in vehicles. As define by the DOT, service animal means "any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including but not limited to guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items."
- 3. Continue to permit an individual with a disability to travel with a respirator or portable oxygen supply, if such equipment is consistent with applicable DOT rules on transportation of hazardous materials.

4. The Contractor agrees to provide the bus or van for picking up citizens for weekday van transportation service, inter-park shuttle, and aquatic center transportation as funds are available.
5. Contractor will certify that dispatch services billed to the City assure exclusive use for City operations.
6. The Contractor shall be held responsible for project management according to specified operating procedures. City may establish additional rules, which are reasonable for operation of service, after consultation with the Contractor.
7. Operating Performance Standards. Vehicles shall be operated with high regard for the safety, comfort and convenience of passengers and the general public. Service shall be provided as scheduled or according to any adjusted schedule established by City, including route modifications required as a result of detours or a declared emergency. The Contractor shall strive to maintain on-time performance; however, Contractor shall not be held responsible for the failure to provide on-time service due to inclement weather or traffic conditions, unavoidable vehicle malfunctions, or natural disasters, if sufficient documentation is provided to City. On-time performance is defined as never earlier than nor fifteen (15) minutes later than the established pickup time.
8. In the event that vehicles are needed for a special event as authorized by the City, Contractor will ensure cooperation of all personnel with any operational procedures pertaining to the special event.
9. Surveys. Service or passenger surveys may be administered by authorized representatives of City or its designee. It is the responsibility of Contractor to ensure the cooperation of all personnel with any operational procedures pertaining to survey work, including the distribution and collection of survey questionnaires or other actions to obtain service-related information.
10. Customer service and information and dispatch functions shall be provided by the Contractor. Contractor shall supply telephone equipment necessary for one dedicated line for customer service and information and a separate business line. The dispatcher must have direct access to a telephone at all times.

REPORTING:

1. Provide requested information to City for future planning purposes relative to when and where participants travel using the Pendleton Transportation Program
2. Contractor will provide records and passenger counts as required to satisfy ODOT reporting requirements. Records include passenger counts for general public trips, wheelchair assisted trips, senior and disabled trips, shared trips, donated trips, fare and donations receipts, hours of operation and trip mileage. Contractor will utilize the ITransitNW program for transit bus operation reporting for passenger counts, bus stop data and type of trip provided, as described in the ITransitNW reporting system. Contractor will provide the ITransitNW Data to the City on a monthly basis.
3. Notifications. The Contractor shall notify the Transit Coordinator (or other appropriate City staff if the Transit Coordinator cannot be contacted) via telephone for the following events and within the following timeframes. Notifications shall be followed up with written reports. Incidents requiring immediate notification: reports of unsafe driver actions; inappropriate driver conduct, reports of unsafe bus/van operational condition; traffic accidents involving a bus/van; and on-board incidents resulting in a passenger exclusion. Contractor shall then provide City a written Incident Report form for any incidents in this category within 2 business days.

MAINTENANCE/VEHICLES AND BUS SHELTERS:

1. The Contractor agrees to provide oil for the buses and vans and be responsible for oil changes, winterization, and normal upkeep of the vehicles at Contractor's expense.
2. The Contractor shall be responsible for maintaining the appearance of all revenue vehicles and City bus shelters. All vehicles must be kept clean including, but not limited to, the following actions: wash exterior and windows (inside and outside) at least three times a week or more if needed to keep exterior of vehicles free of visible dirt; clean windshield, lights and mirrors, dust dash, and sweep and mop or vacuum interiors daily to remove all dirt and debris; and repair or replace promptly any worn, broken, cut, torn or vandalized components that are visible to, or accessible by the public to eliminate hazards or minimize discomfort. The bus drivers shall keep the interior of the bus clean of trash and other debris. At a minimum, the revenue vehicles will be deep cleaned once per week. The weekly deep cleaning procedure must include all areas of the vehicle including bumpers, wheels, panels, and seats. The bus shelters will have windows washed and trash picked up a minimum of two times per week.

3. The Contractor will maintain an operational facility within the City limits to service the City program.
4. At all times during the Term of the Lease, Contractor shall maintain with an A rated admitted carrier in the state of Oregon, Auto Physical Damage coverage, Comprehensive & Collision on the City of Pendleton Owned vehicles and Contents of not less than \$100,000 per vehicle and a deductible no higher than \$1,000 each. Additionally, Contractor shall provide auto liability coverage of \$2,000,000 per Occurrence \$3,000,000 Aggregate for bodily injury, personal injury or property damaged for each motor vehicle. The Contractor shall name City of Pendleton as an additional Insured and Loss Payee, and ODOT Public Transit as an additional Insured and Loss Payee, on said policy and promptly provide a certificate of said insurance coverages to City. Contractor will provide written notice of any cancellation of insurance 30 days prior to cancellation.
5. Contractor shall defend, indemnify and hold harmless City, its officers, agents and employees against all liability, loss and costs arising from actions, suits, claims or demands attributable in whole or in part to the acts or omissions of or related to any activity and use by Contractor of the City property involved in contract performance, any condition of the property or the existence of any improvements or additions to the property by Contractor, Contractor's officers, agents and employees. This provision also includes such indemnification of City from claim made by users, guests, invitees, and any other person authorized by Contractor to use of City property involved in performance of the contract.
6. At the end of the term of the contract, the Contractor shall return City-supplied vehicles and equipment to City in sound mechanical condition, subject to ordinary wear and tear.
7. Pre-trip Inspections. Each vehicle must receive a daily pre-trip inspection by the operator prior to being placed in service. Daily pre-trip inspections shall include, at a minimum, any and all federal and state inspection requirements. Any problems identified in the inspection shall be promptly reported in writing to the maintenance and operations supervisors or equivalent. If the problem is a safety device, wheelchair lift/ramp, or radio, the bus shall not be placed into service until repairs are made. A record of all such inspections shall be kept by the Contractor and be available to the City.
8. Any vehicle disabled by accident, mechanical problem, or any other reason, must be removed from the scene and replaced with another vehicle. If the vehicle can be driven, City will expect the Contractor to remove it from the scene. If the vehicle cannot be driven, Contractor will have the vehicle towed.
9. The Contractor will make every effort to ensure that the City's revenue

vehicles are properly maintained and fully operational at all times. Contractor shall provide adequate facilities or contract out for maintenance and repair of the revenue vehicles. Contractor shall prioritize repairs on City's revenue vehicles over non-revenue or any other vehicles Contractor is responsible for. Contractor will strive to ensure that costs for repairs and maintenance are as low as possible without compromising quality. Contractor will promptly reply to inquiries made by City into maintenance and repair.

10. At a minimum, maintenance shall be provided in accordance with Original Equipment Manufacturers' (OEM's) Schedule for said equipment, including but not limited to adhering to the OEM's Standard Labor Hours (flat rate) when performing maintenance and repairs. The Contractor shall not proceed with a repair of a revenue vehicle without the consent of the City if the estimated cost of the repair is determined by the Contractor to be in excess of \$2,500. Repairs \$10,000 or more will be required to follow the City's purchasing bid policy.
11. City reserves the right to arrange for repairs or maintenance by others, if in the City's sole discretion, these repairs or services can be better performed and/or at a lower cost than provided by Contractor. City will not exercise this right without prior notification to Contractor.

PERSONNEL:

1. Contractor shall be responsible for selection and hiring of personnel qualified for the operation of equipment and maintenance services. The Contractor is responsible for all investigations pertaining to grievances or complaints filed by or against its employees.
2. Regularly assigned drivers or a trained replacement must be available daily to ensure consistent and reliable service under the contract.
3. Contractor shall be solely responsible for the satisfactory work performance of all employees as described by this contract or any reasonable performance standard established by City. The Contractor is responsible for the construction and development of all operator work schedules based upon route requirements. The Contractor shall hold City harmless from any liability, damages, claims, costs and expenses of any nature arising from alleged violations of personnel practices. The City shall have the right to demand removal from service under the contract, for reasonable cause, any personnel furnished by Contractor.
4. Contractor is required to have a dispatcher or a Field Supervisor available on call during all revenue service hours operated.
5. Contractor shall supply, and maintain throughout the contract term, a sufficient number of properly qualified and trained personnel to operate

the equipment and to provide the services required. All Contractor employees, at all times while on duty in the performance of service required herein, shall be neatly and cleanly dressed and shall at all times maintain a courteous and cooperative attitude in their contact with the public and shall answer to the best of their ability any questions from the public regarding the service. Customer service training must include a focus on passenger relations. All Contractor personnel who are likely to be in contact with the public shall be trained by Contractor to give accurate information concerning routes and schedules of services as approved by City. The City reserves the right to observe drivers by having a person assigned by the City, and unknown to the driver, ride on selected routes and report his/her findings to the City.

6. Drivers shall wear tags clearly displaying their names and Contractor's business name while performing their duties. Upon notice from City concerning the conduct, demeanor, or appearance of such persons not conforming to these standards, the Contractor shall take all steps necessary to remove or alleviate the cause of the objection.
7. The Contractor shall require each vehicle operator to have and maintain all required Oregon drivers licenses, medical certificates and other Oregon Division of Motor Vehicles (DMV) required driver qualifications. The Contractor shall conduct pre- employment DMV checks of all personnel, including all independent contractor or subcontractor employees hired for the services, and shall check DMV records at least every 12 months for accidents, vehicle code violations, and valid driver's licenses of its employees whose job requires them to operate City vehicles. The Contractor shall notify City of the results of such checks and any corrective actions taken
8. If service under the contract is increased, requiring changes in the number of revenue vehicles, number of routes, days and/or hours of service, and/or service frequency, the Contractor must have available, or be able to acquire in a timely fashion, any additional personnel required for the provision of such additional service. If service under the contract is reduced requiring changes in the number of revenue vehicles, number of routes, days and/or hours of service, and/or service frequency, the Contractor shall hold the City harmless for any staffing or revenue impacts this change may cause.

FEDERAL/CITY REQUIREMENTS:

1. Shall meet the requirements for public contracting under ORS 279.310-279.435, as they apply to this contract.
2. The Contractor will comply with the Federal Requirements, Exhibit A including Federal Drug and Alcohol Program Requirements and Certification Regarding Lobbying.

3. The City and the Contractor acknowledge the signed List of Certifications and Assurances for Federal Administration Grants as attached as Exhibit B to this contract for receipt of Small Cities and Rural Areas Program grants. These certifications and assurances are used in the connection with all Federal assistance programs administered by FTA. These certifications and assurances include all annual certifications required by 49 U.S.C. 5311 Non-Urban Formula.

COMPENSATION:

1. The City will pay the Contractor \$XXXX per hour for providing a non-CDL driver, \$XXXX per hour for provide a CDL driver and \$XXXX per month for a dispatch position for the City Transportation bus and van programs and \$XXXXX per hour for cleaning services for transit fleet vehicles and City bus shelters. The Contractor will bill the City once a month for program costs as provided in contact. From this amount would be subtracted donations and fares received from the riders by the Contractor. These programs include the - aquatic center shuttle, Dial-A-Ride van service, parks and recreation inter-park shuttle and Deviated Route service.
2. The Contractor will have the option of either direct billing or bill based on an average gas price for the month for the fuel used by the bus or van(s) in the bus and van transportation programs provided by the City. The Contractor will provide a statement reflecting fuel prices paid with each invoice submitted to the City of Pendleton.
3. In the event the contract is extended, effective *July 1st* of each contract year, beginning with **2024**, the contract rates shall be increased by the Consumer Price Index percentage for December of the previous year as reported by the U.S. Department of Labor, Bureau of Labor Statistics for West Region Urban Consumers (CPI-U), up to a maximum of three (3) percent annually rounded to the nearest nickel. In the case the CPI is negative, the City will require the Contractor to maintain the rates as per the current year.

C. City agrees to:

1. Participate in the City' s van and bus transportation programs from **July 1, 2022 to June 30, 2024**. (Not to exceed budgeted appropriation adopted annually by the City Council. Program hours determined by amount of grant funding available.)
2. City-Provided Vehicles. The City will provide revenue vehicles and will meet or exceed FTA recommendations for spare vehicle ratio. City reserves right to expand or reduce the fleet, including the makeup of

vehicle types.

3. City-provided revenue vehicles shall not be used for any non-revenue purposes with the exception of training and City-authorized special events. City-provided revenue vehicles will be stored and maintained at the Contractor's facility unless otherwise agreed to by the City.
4. City will provide any information available to the Contractor as to participants who may require wheelchair accessible transportation. The Contractor and City recognize that participant is not required to use wheelchair access transportation, even if made available.
5. City agrees to indemnify, defend and hold harmless Contractor and its officers, agents and employees against all liability, loss and costs arising from actions, suits, claims or demands for the acts or omissions of City and its officers, agents and employees, in performance of this contract.

Each party shall give to the other prompt and timely notice of any claim made or suit instituted coming to the knowledge of their respective officers, or personnel. Both parties have the right to participate in the defense of a claim to the extent of its own interest.

6. Subject to the City Tort Claims Code, including, but not limited to the liability caps of that Code, the City shall defend, indemnify and hold harmless the Contractor, its officers, employees, and agents from and against any and all Claims arising out of resulting from the willful or negligent acts, errors or omissions of the City, its officers, employees, or agents in the performance of their services or organizational operations under this Contract.
7. The City reserves the right to audit and inspect City related records and inspect City related vehicles for safety and maintenance compliance.

IV. CANCELLATION:

City may cancel, or the City may amend upon terms agreeable to the Contractor this agreement by providing the Contractor with 60 (sixty) days written notice to the Contractor at the address below, by certified mail. Such notice shall be deemed delivered when placed in the U.S. Mail.

V. EXTENSION:

This contract may be extended for an additional two *one-year* extensions upon mutual agreement from both parties.

VI. COMPLETE AGREEMENT:

This agreement is the full written agreement between the parties and replaces any previous agreements written or oral between the parties, and may be changed only by written agreement of parties.

VII. RATIFICATION:

This agreement is binding upon City only upon approval and receipt of funds by the State of Oregon Department of Transportation grant funds for the program set forth herein.

VIII. NOTICES:

Notices shall be mailed to:

City of Pendleton
Finance Director
500 SW Dorion
Pendleton, OR 97801

Contractor
Address
Pendleton, OR 97801

IN WITNESS WHEREOF, the parties have caused these presents to be executed in their behalf as of the date and year first appearing on page one hereof.

CITY OF PENDLETON

Contractor

By _____
John Turner, Mayor

By _____
Contractor, President

Attest _____
Andrea Denton, City Recorder

Approved as to Form: _____
Nancy Kern, City Attorney

CITY OF PENDLETON

Public Contracts Addendum

The contract to which this addendum is attached shall be governed by the additional terms and conditions set forth herein:

- 1) The Contractor shall make payment promptly, as due, to all persons supplying to such Contractor labor or materials for the prosecution of the work provided in the contract.
- 2) The Contractor shall provide workers' compensation insurance coverage for all individuals, others than those exempt under ORS 656.027, who perform labor under the contract before labor under the contract commences. Contractor shall pay all contributions or amounts due for Workers' Compensation coverage from the Contractor incurred in the performance of the contract.
- 3) The contractor will not permit any lien or claim to be filed or prosecuted against the City on account of any material or labor furnished to the Contractor.
- 4) The Contractor will pay to the Oregon Department of Revenue all sums withheld from employees pursuant to Oregon Statutes.
- 5) If the Contractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this contract as such claim shall become due, the proper officer or officers representing the City may pay such claim to the person furnishing the labor or service and charge the amount of the payment against funds due or to become due to the Contractor by reason of this contract.

The payment of a claim in this manner authorized by this paragraph shall not relieve the Contractor or the Contractor's surety from obligation with respect to any unpaid claim.

- 6) No person shall be employed for more than eight hours in any one day, or forty hours in any one week, except in case of necessity, emergency, or where the public policy absolutely requires it, and in such cases the laborer shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under this contract who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving overtime.
- 7) The Contractor shall promptly, as due, make payment to any person, copartnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from wages of employees pursuant to any law, contract, or agreement for the purpose of providing or pay for such service.
- 8) Any and all employees of Contractor or his contractors while engaged or performing any work or services required by him under this agreement shall be considered his employees only and not employees of the City and any claims that may arise under the Workers' Compensation

Act on behalf of the said employees while so engaged in any and all claims made by third parties as a consequence of any act or omission on the part of him or his employees while so engaged on any of the work or services provided to be rendered herein shall be the sole obligation responsibility of Contractor and/or his contractors. The parties to this agreement recognize that Contractor and his employees, officers, agents and subcontractors are providing professional services as independent contractors and are not providing services as employees of the City and are therefore not entitled to the benefits provided by the City to his employees, including but not limited to Workers' Compensation benefits, group health insurance, social security, pension plans, or any other benefit accruing to City employees. Contractor hereby agrees to hold the City harmless from, and shall process and defend at his own expense, all claims, demands, or suits of whatever nature, brought against him arising from his performance under this agreement. Contractor shall advise his officers, agents, employees and subcontractors of this provision.

9) If the City of Pendleton does not appropriate funds for the next succeeding fiscal year to continue payments required by this contract, this contract will terminate at the end of the last fiscal year for which funds have been appropriated. The City of Pendleton will notify Contractor of such non-appropriation not later than thirty days before the beginning of the year within which funds are not appropriated. This provision does not permit the City of Pendleton to terminate this contract in order to provide similar services for the purpose for which this contract has been entered into.

10) If any action is instituted in connection with any claim or controversy arising out of this agreement, attorney fees may not be awarded by the court of competent jurisdiction and each party shall bear its own expenses of such action.

11) This agreement and the parties rights under it shall be construed and regulated by the laws of the State of Oregon and venue for any dispute hereunder shall lie in Pendleton, Umatilla County, Oregon.

12) Execution in Counterparts; Electronic Transmittal. This document may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Said counterparts may be transmitted by one party to the other by facsimile or electronic mail, including pdf format, with the same force and effect as delivery of original signature. The parties may use electronic or signatures as evidence of the execution and delivery of this document to the same extent as an original signature.

DATED: _____, 2022

Contractor (print business name)

By _____
Signature

EXHIBIT A: FEDERAL REQUIREMENTS

One of the principles of contracting with Federal funds received indirectly from the Federal Transit Administration (FTA) is recognition that, as a condition of receiving the funds, certain specific requirements must be met not only by the Recipient, but also by any sub-recipients and contractors. To the extent applicable, Federal requirements extend to the third party contractors and their contracts at every tier and sub-recipients and their sub-agreements at every tier. The specific requirements for particular grant funds are in the Master Agreement that is signed and attested to by ODOT. This Master Agreement is incorporated by reference and made part of any contract issued as a result of this RFP. Said Master Agreement is available upon request from Public Transit Division by calling (503) 986-3300 or accessing the FTA website: www.fta.dot.gov/library/legal.

The following is a summary of the primary requirements associated with the type of transaction covered by any agreement or contract including this contract #XXXX:

1. Civil Rights

The following requirements apply to the underlying contract:

(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.

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

(a) 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.

(b) 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.

(c) 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.

(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.

C. 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.

2. Audit and Inspection of Records

A. Contractor shall maintain a complete set of records relating to this contract, in accordance with generally accepted accounting procedures. Contractor shall permit the authorized representatives of City of Pendleton, the U.S. Department of Transportation, and the Comptroller General of the United States to inspect and audit all work, materials, payrolls, books, accounts, and other data and records of Contractor relating to its performance under this contract until the expiration of three (3) years after final payment under this contract.

B. Contractor further agrees to include in all of its subcontracts under this contract a provision to the effect that the subcontractor agrees that City of Pendleton, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and other records of the subcontractor. The term "subcontract" as used in this Paragraph excludes (1) purchase orders not exceeding \$10,000.00 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

C. The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between City of Pendleton and Contractor, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals, and exceptions have been resolved.

3. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR 27.9, the Applicant assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Applicant assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*, and implementing U.S. DOT regulations at 49 CFR parts 27, 37, and 38, and any applicable regulations and directives issued by other Federal departments or agencies.

4. Procurement Compliance Certification

The Applicant certifies that its procurements and procurement system will comply with all applicable third party procurement requirements of Federal laws, executive orders, regulations, FTA directives, and requirements, as amended and revised, and other requirements FTA may issue including FTA Circular 4220.1E, "Third Party Contracting Requirements," and any revisions thereto, to the extent those requirements are apply. The Applicant certifies that it will include in its contracts financed in whole or in part with FTA assistance all clauses required by Federal laws, executive orders, or regulations, and will ensure that each subrecipient and each contractor will also include in its subagreements and its contracts financed in whole or in part with FTA assistance all applicable clauses required by Federal laws, executive orders, or regulations.

5. Disadvantaged Business Enterprise

A. City of Pendleton complies with the applicable provisions of 49 CFR Part 26 related to Disadvantaged Business Enterprises and reports quarterly to ODOT.

B. Contractor and Subcontractor Obligation. Each contract City of Pendleton signs with the contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

"The contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of ODOT and FTA assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the City deems appropriate."

6. Financial and Administrative Capacity

Contractor has, or will have, the necessary legal, financial, and managerial capability to receive, and disburse Federal assistance authorized for 49 USC 5311 and to implement and manage the contract.

7. Lobbying

Clause and specific language therein are mandated by 49 CFR Part 19, Appendix D - Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

8. Federal Changes

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement (Form FTA MA(11) dated October, 2004) 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.

9. Cost Allowability

Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of Part 31 of the Federal Acquisition Regulation.

10. Clean Air

If the total value of this contract exceeds \$100,000:

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 422 U.S.C. 7401 et seq. The Contractor agrees to report each violation to City of Pendleton and understands and agrees that City of Pendleton 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.

11. Clean Water Requirements

If the total value of this contract exceeds \$100,000:

- (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 City of Pendleton and understands and agrees that City of Pendleton 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 the FTA.

12. Charter Service

The Contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

13. School Bus Services

Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

14. Environmental Violations

For all contracts and subcontracts in excess of \$100,000.00, Contractor agrees to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11378, and Environmental Protection Agency regulations (40 CFR, Part 15), which prohibit the use under

nonexempt Federal contracts, grants, or loans, of facilities included on the EPA List for Violating Facilities. Contractor shall report violations to FTA and to the USEPA Assistant Administrator for Enforcement (ENO329).

15. Energy Conservation

The Contractor shall 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 (42 USC Section 6321, et seq.).

16. Privacy Act

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) 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, 5 U.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.

(2) 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 FTA.

17. Recycled Products

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

18. No Government Obligation to Third Parties

(1) The Purchaser 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 Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(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.

19. Termination

a. Termination for Convenience (General Provision) The City 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 City to be paid the Contractor. If the Contractor has any property in its possession belonging to the City, the Contractor will account for the same, and dispose of it in the manner the City directs.

b. Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the City 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 City 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 City, 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.

c. Opportunity to Cure (General Provision) The City in its sole discretion may, in the case of a termination for breach or default, allow the Contractor ten (10) 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

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

d. Termination for Convenience (Professional or Transit Service Contracts) The City, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

e. Termination for Default (Transportation Services) If the Contractor fails to pick up the

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

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

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

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

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

If, after serving a notice of termination for default, the City determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the City, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

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

The certification in this clause is a material representation of fact relied upon by the City. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to City of Pendleton, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

21. Privacy Act

Contracts Involving Federal Privacy Act Requirements - The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) 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,

5 U.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.

(2) 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 FTA.

22. Breaches and Dispute Resolution

Applicable to all contracts in excess of \$100,000:

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 City's [title of employee]. 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 City Manager. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the City Manager shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by City, 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/her employees, agents or others for whose acts he/she 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, all claims, counterclaims, disputes and other matters in question between the City and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the City is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City 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.

23. Transit Employee Protective Agreements

Transit Employee Protective Provisions. (1) The Contractor agrees to the comply with applicable transit employee protective requirements as follows:

(a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

(b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth in the Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

(c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

(2) The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

24. Incorporation of Federal Transit Administration (FTA) Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in 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 (name of grantee) to be in violation of the FTA terms and conditions.

25. 49 CFR PART 20 - CERTIFICATION REGARDING LOBBYING

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.]

26. DRUG AND ALCOHOL PROGRAM REQUIREMENTS

In response to the passage of the Omnibus Transportation Act of 1991, the U.S. Department of Transportation (DOT) and the Federal Transit Administration (FTA) have issued regulations governing drug use and alcohol misuse in the transit industry. The regulations mandate urine drug testing and evidential breath alcohol testing for safety-sensitive positions.

The regulations cover transit employees who perform safety-sensitive functions, applicants for employment in safety-sensitive functions, and contractors/sub-contractors who perform safety-sensitive functions on behalf of City of Pendleton

Safety sensitive function means any of the following duties, when performed by employees of recipients, sub-recipients, operators or contractors/sub-contractors:

- 1) Operating a revenue service vehicle, including when not in revenue service;
- 2) Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License (CDL);
- 3) Controlling dispatch or movement of a revenue service vehicle;
- 4) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment in revenue service;
- 5) Carrying a firearm for security purposes.

Contractor and/or sub-contractor must comply with the regulations set forth in 49 CRF Part 655 and 49 CFR Part 40.

All provisions of the regulations must be implemented prior to providing services under this contract.

Additionally, the contractor/sub-contractor must:

- 1) Make key people available in the event of an audit
- 2) Make documentation etc., available in event of audit.
- 3) Be responsible to resolve issues that result from an audit in a timely manner.

27. Drug and Alcohol Testing

FTA's drug and alcohol rules, 49 CFR 653 and 654, respectively, are unique among the regulations issued by FTA. First, they require recipients to ensure that any entity performing a safety-sensitive function on the recipient's behalf (usually subrecipients and/or contractors) implement a complex drug and alcohol testing program that complies with Parts 653 and 654. Second, the rules condition the receipt of certain kinds of FTA funding on the recipient's compliance with the rules; thus, the recipient is not in compliance with the rules unless every entity that performs a safety-sensitive function on the recipient's behalf is in compliance with the rules. Third, the rules do not specify how a recipient ensures that its subrecipients and/or contractors comply with them.

How a recipient does so depends on several factors, including whether the contractor is covered independently by the drug and alcohol rules of another Department of Transportation operating administration, the nature of the relationship that the recipient has with the contractor, and the financial resources available to the recipient to oversee the contractor's drug and alcohol testing program. In short, there are a variety of ways a recipient can ensure that its subrecipients and contractors comply with the rules. Therefore, FTA has developed three model contract provisions for recipients to use "as is" or to modify to fit their particular situations.

Note: The contractor will be responsible to be knowledgeable and current on FTA Drug and Alcohol policies and have a plan to execute drug and alcohol policies and testing immediately upon the start of transit operations. Drug and alcohol testing of employees is a requirement under this contract. FTA and State of Oregon policies will be followed.

Explanation of Model Contract Clauses

Under Option 1, the recipient ensures the contractor's compliance with the rules by requiring the contractor to participate in a drug and alcohol program administered by the recipient. The advantages of doing this are obvious: the recipient maintains total control over its compliance with 49 CFR 653 and 654. The disadvantage is that the recipient, which may not directly employ any safety-sensitive employees, has to implement a complex testing program. Therefore, this may be a practical option only for those recipients which have a testing program for their employees, and can add the contractor's safety-sensitive employees to that program.

Under Option 2, the recipient relies on the contractor to implement a drug and alcohol testing program that complies with 49 CFR 653 and 654, but retains the ability to monitor the contractor's testing program; thus, the recipient has less control over its compliance with the drug and alcohol testing rules than it does under option 1. The advantage of this approach is that it places the responsibility for complying with the rules on the entity that is actually performing the safety-sensitive function. Moreover, it reserves to the recipient the power to ensure that the contractor complies with the program. The disadvantage of Option 2 is that without adequate

monitoring of the contractor's program, the recipient may find itself out of compliance with the rules.

Under option 3, the recipient specifies some or all of the specific features of a contractor's drug and alcohol compliance program. Thus, it requires the recipient to decide what it wants to do and how it wants to do it. The advantage of this option is that the recipient has more control over the contractor's drug and alcohol testing program, yet it is not actually administering the testing program. The disadvantage is that the recipient has to specify and understand clearly what it wants to do and why.

Drug and Alcohol Testing Option 1

The contractor agrees to:

(a) participate in (grantee's or recipient's) drug and alcohol program established in compliance with 49 CFR 653 and 654.

Drug and Alcohol Testing Option 2

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Oregon, or the City of Pendleton, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654 before February 28th and to submit the Management Information System (MIS) reports before March 20th to ODOT Public Transit, Salem, OR. To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

Drug and Alcohol Testing Option 3

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Oregon, or the City of Pendleton, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654 before February 28th and to submit the Management Information System (MIS) reports before March 10 to ODOT Public Transit, Salem, OR. To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register. The Contractor agrees further to [Select a, b, or c] (a) submit before (insert date or upon request) a copy of the Policy

Statement developed to implement its drug and alcohol testing program; OR (b) adopt (insert title of the Policy Statement the recipient wishes the contractor to use) as its policy statement as required under 49 CFR 653 and 654; OR (c) submit for review and approval before (insert date or upon request) a copy of its Policy Statement developed to implement its drug and alcohol testing program. In addition, the contractor agrees to: (to be determined by the recipient, but may address areas such as: the selection of the certified laboratory, substance abuse professional, or Medical Review Officer, or the use of a consortium).

END OF EXHIBIT A: FEDERAL REQUIREMENTS

EXHIBIT B: FTA CERTIFICATIONS AND ASSURANCES

FEDERAL FISCAL YEAR 2022 CERTIFICATIONS AND ASSURANCES FOR FTA ASSISTANCE PROGRAMS

(Signature pages alternate to providing Certifications and Assurances in TrAMS.)

Name of Applicant: _____

The Applicant certifies to the applicable provisions of categories 01–20. _____

Or,

The Applicant certifies to the applicable provisions of the categories it has selected:

Category	Certification
01 Certifications and Assurances Required of Every Applicant	_____
02 Public Transportation Agency Safety Plans	_____
03 Tax Liability and Felony Convictions	_____
04 Lobbying	_____
05 Private Sector Protections	_____
06 Transit Asset Management Plan	_____
07 Rolling Stock Buy America Reviews and Bus Testing	_____
08 Urbanized Area Formula Grants Program	_____
09 Formula Grants for Rural Areas	_____
10 Fixed Guideway Capital Investment Grants and the Expedited Project Delivery for Capital Investment Grants Pilot Program	_____
11 Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs	_____
12 Enhanced Mobility of Seniors and Individuals with Disabilities Programs	_____
13 State of Good Repair Grants	_____
14 Infrastructure Finance Programs	_____
15 Alcohol and Controlled Substances Testing	_____
16 Rail Safety Training and Oversight	_____
17 Demand Responsive Service	_____
18 Interest and Financing Costs	_____
19 Construction Hiring Preferences	_____
20 Cybersecurity Certification for Rail Rolling Stock and Operations	_____

FEDERAL FISCAL YEAR 2020 FTA CERTIFICATIONS AND ASSURANCES

SIGNATURE PAGE (Required of all Applicants for federal assistance to be awarded by FTA in FY 2022)

AFFIRMATION OF APPLICANT

Name of the Applicant:

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 **2022**, 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 during federal fiscal year **2022**.

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 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 TrAMS, provided the Applicant has on file and uploaded to TrAMS this hard-copy Affirmation, signed by the attorney and dated this federal fiscal year.

EXHIBIT C: PRICE PROPOSAL

Description of Service/Cost Center	Fixed monthly cost	By service hour
Dispatch Services		NA
Operations - Revenue Hour, Non-CDL	NA	
Fleet Vehicle and Bus Shelter Cleaning	NA	
Operations - Revenue Hour Cost, CDL	NA	

Note:

All costs in the table above represent the costs for the term of the contract.