New Hampshire DOT
Department of Transportation

William Cass, P.E.
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

55

David Rodrigue, P.E.
Assistant Commissioner
Andre Briere, Colonel, USAF (RET)
Deputy Commissioner

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, NH 03301

Bureau of Rail & Transit
October 19, 2023

REQUESTED ACTION

1. Authorize the Department of Transportation to enter into a **Sole Source** contract amendment with Boston Express Bus, Inc. (Vendor # 166250), Concord, NH, to increase the contract amount by $2,200,000 from $21,598,557 to $23,798,557, effective upon Governor and Executive Council approval. The original contract was approved by the Governor and Executive Council on January 16, 2008, Item #174, and most recently amended with Governor and Executive Council approval on March 24, 2021, Item #26. 100% Federal Funds.

Funding for this amendment is available as follows for FY 2024 and FY 2025 with the authority to adjust encumbrances in each of the State Fiscal Years through the Budget Office if needed and justified.

	SFY 2024	SFY 2025
04-96-96-964010-2050		
State Bus Services & Facilities		
048-500226 Contract Repairs - Bldgs./Grounds	$200,000	$200,000
04-96-96-964010-2050		
State Bus Services & Facilities		
103-502664 Contracts for Operational Services	$800,000	$1,000,000

2. Further, authorized to extend the contract completion date from December 31, 2023, to December 31, 2025, effective upon Governor and Executive Council approval.

EXPLANATION

This **Sole Source** contract amendment will extend the contract timeline and increase the funding amount for Boston Express. This amendment will enable Boston Express to continue providing daily bus service for commuters and travelers along the I-93 corridor between Londonderry-Salem-Boston through December 31, 2025. During this period, the Department will further evaluate new post-pandemic commuter travel patterns and consider future public transit needs and funding requirements for this corridor, as well as future levels of State investments and involvement in the prevailing services. A review of projected Federal Transit Administration (FTA) funding availability and securement of a long-term operator for the prevailing services to be provided beyond the completion

date of this amendment will also be addressed. The Department believes this additional time will allow continuity of existing services and allow time to plan for future commuter bus services on this corridor that will meet the needs of commuters and the traveling public.

The Department allocated $2,200,000 of FTA Section 5307 Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) funds and FTA Section 5307 American Rescue Plan Act (ARPA) funds for this amendment.

Boston Express Bus, Inc. has been providing commuter bus service under contract to the Department along the I-93 corridor to Boston since 2008. The use of approved contract funds, predominately FTA funds, has allowed Boston Express Bus to receive reimbursement for FTA-eligible operating, preventive maintenance, capital, and marketing expenses to support this bus service. The total revised contract amount, including previous amendments, is $23,798,557.

All other provisions of the agreement shall remain in effect.

In the event that Federal Funds become unavailable, General Funds will not be requested in support of this project.

The Amendment has been approved by the Attorney General as to form and execution and the Department has verified the necessary funds are available for the contract period. Copies of the fully executed agreement are on file at the Secretary of State's Office and the Department of Administrative Services Office, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Your approval of this resolution is respectfully requested.

Sincerely,

William J. Cass, P.E.
Commissioner

Attachments

AMENDMENT TO AGREEMENT #6

BOSTON EXPRESS BUS, INC. (I-93)

This Amendment to Agreement ("Amendment") is entered into this 16 day of October, 2023, by and between the State of New Hampshire, acting by and through the New Hampshire Department of Transportation, 7 Hazen Drive, Concord NH 03302-0483, (hereinafter referred to as "State") and Boston Express Bus, Inc. (hereinafter referred to as "the Contractor"), collectively referred to as "the Parties".

WHEREAS, the Parties entered into a contract, approved by the Governor and Executive Council on January 16, 2008, Item 214, for daily commuter bus service between Manchester and Boston on the I-93 corridor, amended June 8, 2011, Item 174; November 9, 2011, Item 122; June 18, 2014, Item 184; December 19, 2018, Item 27; and amended March 24, 2021, Item 26 (herein referred to as "Agreement"), and this Agreement remains in effect;

WHEREAS, the Parties desire to amend the Agreement as provided in this Amendment; and

WHEREAS, the Agreement allows for amendments by an instrument in writing executed by both Parties.

WHEREAS, the State has available Federal Transit Administration (FTA) funds to continue support of operations expenses for Boston Express Bus commuter bus service between Londonderry-Salem-Boston;

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement, and set forth herein, the Parties hereto do hereby agree as follows:

1. Amend Section 2, Definitions, Completion Date to read:
   Completion Date of the contract shall be December 31, 2025. Upon the Completion Date, the Contractor shall return all project equipment to the State and vacate any State-owned property utilized for the services and any project equipment shall be returned to the State.

2. Amend Exhibit B, Budget, B.1 to include an additional **$2,200,000.00** of FTA funds for net operating expenses (total operating expenses less revenues) and capital expenses (equipment and preventive maintenance) for a revised contract amount of **$23,798,557.00**;

	EXISTING	**AMENDED**	REVISED
Net Operating Expenses (Total Operating Expenses less Revenues)	$18,249,253.00	$1,800,000.00	$20,049,253.00
Marketing Expenses	$810,000.00	$0.00	$810,000.00
Maintenance & Terminal Capital Equipment	$888,416.00	$0.00	$888,416.00
Park & Ride Facility Maintenance	$260,888.00	$400,000.00	$660,888.00
Vehicle Capital Expenses	$1,390,000.00	$0.00	$1,390,000.00
Contract Amount	**$21,598,557.00**	**$2,200,000.00**	**$23,798,557.00**

This Amendment hereunder shall become effective upon approval by the New Hampshire Governor and Executive Council or January 1, 2024, whichever is later.

Except as specifically amended and modified by the terms and conditions of this Amendment, the Agreement, and the obligations of the Parties hereunder, shall remain in full force and effect with the terms and conditions set forth herein.

IN WITNESS WHEREOF, the Parties hereto have set their hands to the date first written above.

Boston Express Bus, Inc.

By: _____ Date: Oct 16, 2023

Print Name and Title: Kenneth J. Hunter

NH Department of Transportation

By: _____ Date: 10/23/2023

Print Name and Title: Michelle L. Winters, Director

Approved by the Attorney General

By: _____ Date: 11/29/2023

Print Name and Title: Samuel Burgess Assistant Attorney General

Approved by the Governor and Executive Council

By: _____ Date: _____

EXHIBITS TO CONTRACT AMENDMENT

Boston Express Bus, Inc.

Amendment and Signature Page

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Certificate of Good Standing

Certificate of Corporate Vote

Certificate of Insurance

Federal Clauses and Certifications

2 CFR Part 200

Amended G & C Contract Item #26, Approved March 24, 2021

Amended G & C Contract Item #27, Approved December 19, 2018

Amended G & C Contract Item #184, Approved June 18, 2014

Amended G & C Contract Item #122, Approved November 9, 2011

Amended G & C Contract Item #174, Approved June 8, 2011

Original G & C Contract Item #214, Approved January 16, 2008

State of New Hampshire

Department of State

CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that BOSTON EXPRESS BUS, INC. is a New Hampshire Profit Corporation registered to transact business in New Hampshire on October 10, 2006. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: **565563**

Certificate Number: **0006324192**

IN TESTIMONY WHEREOF,
I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 21st day of September A.D. 2023.

David M. Scanlan
Secretary of State

BOSTON EXPRESS BUS, INC.

CERTIFICATE OF VOTE

I, Benjamin W. Blunt, hereby certify that I am President of Boston Express Bus, Inc.

I hereby certify the following is a true copy of a vote taken at a special meeting of the Board of Directors of the corporation held on October 2, 2023 at an office of the corporation in Concord, New Hampshire, at which a quorum of the Board was present and voting.

VOTED: That Kenneth J. Hunter, as Vice President of said corporation, is hereby authorized and empowered to execute all documents between the State of New Hampshire, and its subdivisions, and Boston Express Bus, Inc. relating to the corporation's provision of passenger bus service between Manchester, Londonderry and Salem New Hampshire and Boston, Massachusetts on the I-93 corridor and further authorizing said officer to execute any documents which may in his judgment be desirable or necessary to effect the purpose of this vote.

I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of the date of the contract to which this certificate is attached. This authority remains valid for thirty (30) days from the date of this Corporate Resolution. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person(s) listed above currently occupy the position(s) indicated and that they have full authority to bind the corporation. To the extent that there are any limits on the authority of any listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are expressly stated herin.

KELSEA J HALE NOTARY PUBLIC MY COMMISSION EXPIRES 11/25/2024 STATE OF NEW HAMPSHIRE

Benjamin W. Blunt
President
Boston Express Bus, Inc.

Subscribed and sworn before me this 2nd day of October 2023.

Kelsea J Hale
NOTARY PUBLIC
State of New Hampshire
My Commission Expires 11/25/2024

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 5/9/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER THE ROWLEY AGENCY INC. 45 Constitution Avenue P.O. Box 511 Concord NH 03302-0511	CONTACT NAME: Alyssa Woods PHONE (A/C, No, Ext): (603) 224-2562 FAX (A/C, No): (603)224-8012 E-MAIL ADDRESS: awoods@rowleyagency.com
INSURED Boston Express Bus, Inc. 7 Langdon Street Concord NH 03301	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A: Miscellaneous Companies — 0010 INSURER B: Acadia Insurance Company — 31325 INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES **CERTIFICATE NUMBER:** 23-24 Bos Exp **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR X Primary GL Layer GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC OTHER:	X		YPP1107620-17	5/1/2023	5/1/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 5,000,000 $ 100,000 $ 5,000 $ 5,000,000 $ 5,000,000 $ 5,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO X ALL OWNED AUTOS X HIRED AUTOS [ ] SCHEDULED AUTOS X NON-OWNED AUTOS	X		YPP1107620-17	5/1/2023	5/1/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 100,000 $ 100,0 $ $
A	[ ] UMBRELLA LIAB [ ] OCCUR X EXCESS LIAB [ ] CLAIMS-MADE [ ] DED X RETENTION $ 0			Excess of primary auto only YEX1107620-17	5/1/2023	5/1/2024	EACH OCCURRENCE AGGREGATE	$ 4,900,000 $ 4,900,000 $
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N [N] N/A If yes, describe under DESCRIPTION OF OPERATIONS below			3A: NH, MA, ME, NY WCA5326280-15	12/31/2022	12/31/2023	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 500,000 $ 500,000 $ 500,000
A	Excess of Primary GL & Auto			YEX1107621-17	5/1/2023	5/1/2024	limit	5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The State of New Hampshire, Department of Transportation is additional insured w/ respects to general & auto liabiliy when required by written contract.

CERTIFICATE HOLDER

State of New Hampshire
Department of Transportation
7 Hazen Dr.
Concord, NH 03301

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Alyssa Woods/AW

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Boston Express

Operations & Management

$ 2,200,000

Sole Source

Paula Devens
System.Web.UI.WebControls.TextBox

New Hampshire DOT
7 Hazen Drive
Concord, New Hampshire 03302-0483
(603) 271-3734

https://www.nh.gov/dot/

The following clauses are for inclusion into procurement documents, but can also be inserted into contractual agreements. However, additional clauses and certification may be required for contractual agreements.

Federal Clauses

ACCESS TO RECORDS AND REPORTS

. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records.

b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.334. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract in accordance with 2 CFR § 200.337.

d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract in accordance with 2 CFR § 200.337.

AMERICANS WITH DISABILITIES ACT(ADA)

The contractor agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

RESTRICTIONS ON LOBBYING

Conditions on use of funds.

(a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: 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.

(b) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.

(c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.

(d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, whether that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

(e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form if that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

Certification and disclosure.

(a) Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:

(1) Award of a Federal contract, grant, or cooperative agreement exceeding $100,000; or

(2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding $150,000.

(b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:

(1) A Federal contract, grant, or cooperative agreement exceeding $100,000; or

(2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding $150,000,

Unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.

(c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes:

(1) A cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

(2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,

(3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(d) Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:

(1) A subcontract exceeding $100,000 at any tier under a Federal contract;

(2) A subgrant, contract, or subcontract exceeding $100,000 at any tier under a Federal grant;

(3) A contract or subcontract exceeding $100,000 at any tier under a Federal loan exceeding $150,000; or,

(4) A contract or subcontract exceeding $100,000 at any tier under a Federal cooperative agreement,

Shall file a certification, and a disclosure form, if required, to the next tier above.

(e) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (a) or (b) of this section. That person shall forward all disclosure forms to the agency.

(f) Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.

(g) For awards and commitments in process prior to December 23, 1989, but not made before that date, certifications shall be required at award or commitment, covering activities occurring between December 23, 1989, and the date of award or commitment. However, for awards and commitments in process prior to the December 23, 1989 effective date of these provisions, but not made before December 23, 1989, disclosure forms shall not be required at time of award or commitment but shall be filed within 30 days.

(h) No reporting is required for an activity paid for with appropriated funds if that activity is allowable under either subpart B or C.

CHARTER SERVICE

The contractor agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. 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 as permitted under: 1. Federal transit laws, specifically 49 U.S.C. § 5323(d); 2. FTA regulations, "Charter Service," 49 C.F.R. part 604; 3. Any other federal Charter Service regulations; or 4. Federal guidance, except as FTA determines otherwise in writing.

The contractor agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: 1. Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA; 2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or 3. Any other appropriate remedy that may apply. The contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

CIVIL RIGHTS LAWS AND REGULATIONS

The following Federal Civil Rights laws and regulations apply to all contracts.

1 Federal Equal Employment Opportunity (EEO) Requirements. These include, but are not limited to:

a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.

b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.

2 Nondiscrimination on the Basis of Sex. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.

3 Nondiscrimination on the Basis of Age. The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.

4 Federal Protections for Individuals with Disabilities. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Civil Rights and Equal Opportunity
The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. Nondiscrimination. In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee

or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

4.Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

5.Promoting Free Speech and Religious Liberty. The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of $150,000:

Clean Air Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FTA.

Federal Water Pollution Control Act

(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.

(2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FTA."

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs.

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

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

d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

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

Compliance with the Contract Work Hours and Safety Standards Act.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards pursuant to 23 CFR § 940. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

DEBARMENT AND SUSPENSION

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of $25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

a) Debarred from participation in any federally assisted Award;

b) Suspended from participation in any federally assisted Award;

c) Proposed for debarment from participation in any federally assisted Award;

d) Declared ineligible to participate in any federally assisted Award;

e) Voluntarily excluded from participation in any federally assisted Award; or

f) Disqualified from participation in any federally assisted Award.

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

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)

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

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

(1) Withholding monthly progress payments;

(2) Assessing sanctions;

(3) Liquidated damages; and/or

(4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 C.F.R. § 26.29(a).

Finally, for contracts with defined DBE contract goals, each FTA Recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency's written consent; and that, unless the Agency's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

ENERGY CONSERVATION

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C.§ 6201).

EQUAL EMPLOYMENT OPPORTUNITY

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

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

NOTICE TO THIRD PARTY PARTICIPANTS

Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and

Applicable changes to those federal requirements will apply to each Third Party Agreement and parties thereto at any tier.

FLY AMERICA

a) Definitions. As used in this clause—
1) "International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States. 2) "United States" means the 50 States, the District of Columbia, and outlying areas. 3) "U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencys, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers
International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

(1) The contractor certifies that it:

(a) Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(b) Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

If the contractor cannot so certify, the Recipient will refer the matter to FTA and not enter into any Third Party Agreement with the Third Party Participant without FTA's written approval.

(2) Flow-Down. The Recipient agrees to require the contractor to flow this requirement down to participants at all lower tiers, without regard to the value of any subagreement.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions within include, in part, certain Standard Terms and Conditions required under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR § 200), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, detailed in 2 CFR § 200 or as amended by 2 CFR § 1201, or the most recent version of FTA Circular 4220.1 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

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

NOTIFICATION TO FTA

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its sub agreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

(1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

(2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

(3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

SOLID WASTES

A Recipient that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

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

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

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

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

a. Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

   1. Procure or obtain;

   2. Extend or renew a contract to procure or obtain;or

   3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

      i. For the purpose of public saftey, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company(or any subsidiary or affiliate of such entities).

      ii. Telecommunications or video surveillance services provided by such entities or using such equipment.

iii. Telecommunications or video surveillance equipment or services procured or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

b. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

c. See Public Law 115-232,section 889 for additional in formation.

d. See also § 200.471.

PROMPT PAYMENT

(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)

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

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

PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1.U.S. DOL Certification. Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.

2.Special Warranty. When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.

3.Special Arrangements. The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

SAFE OPERATION OF MOTOR VEHICLES

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

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

SCHOOL BUS OPERATIONS

The contractor agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
2. FTA regulations, "School Bus Operations," 49 C.F.R. part 605
3. Any other Federal School Bus regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

If Contractor violates this School Bus Agreement, FTA may:
1. Bar the Contractor from receiving Federal assistance for public transportation; or
2. Require the contractor to take such remedial measures as FTA considers appropriate.

When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities.

The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

SPECIAL NOTIFICATION REQUIREMENTS FOR STATES

Applies to States –

a. To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:

(1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
(2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
(3) The amount of federal assistance FTA has provided for a State Program or Project.

b. Documents - The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance,) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

SUBSTANCE ABUSE REQUIREMENTS

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency, or Agency, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with part 655 and to submit the Management Information System (MIS) reports to the Agency.

SIMPLIFIED ACQUISITION THRESHOLD

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

SEVERABILITY

The Contractor agrees that if any provision of this agreement or any amendment thereto is determined to be invalid, then the remaining provisions thereof that conform to federal laws, regulations, requirements, and guidance will continue in effect.

TERMINATION

Termination for Convenience (General Provision)
The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency'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 Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs.

Termination for Default [Breach or Cause] (General Provision)
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 the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Agency may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the Agency 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 Agency, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

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

If Contractor fails to remedy to Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Agency setting forth the nature of said breach or default, Agency 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 Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

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

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

Termination for Default (Supplies and Service)
If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

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 ension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall minate 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 Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve the goods until surrendered to the Agency or its agent. The Contractor and Agency 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 Agency.

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

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if: 1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and 2. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract. 3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Agency.

Termination for Convenience or Default (Architect and Engineering)
The Agency may terminate this contract in whole or in part, for the Agency's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Agency 's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. Agency has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of the Agency, the Agency's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If the termination is for failure of the Contractor to fulfill the contract obligations, the Agency may complete the work by contact or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency. 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 Agency

Termination for Convenience or Default (Cost-Type Contracts)
The Agency may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of Agency 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 Agency, or property supplied to the Contractor by the Agency. If the termination is for default, the Agency 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 Agency and the parties shall negotiate the termination settlement to be paid the Contractor.

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

TRAFFICKING IN PERSONS

The contractor agrees that it and its employees that participate in the Recipient's Award, may not:

(a) Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect;

(b) Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or

(c) Use forced labor in the performance of the Recipient's Award or subagreements thereunder.

VIOLATION AND BREACH OF CONTRACT

Disputes:
Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the agency. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the agencies authorized representative. 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 agencies authorized representative shall be binding upon the Contractor and the Contractor shall abide be the decision.

Performance during Dispute:
Unless otherwise directed by the agencies authorized representative, contractor shall continue performance under this contract while matters in dispute are being resolved.

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

Remedies:

Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the agencies authorized representative and 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 Agency is located.

Rights and Remedies:
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 Agency 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.

Federal Certifications

CERTIFICATION AND RESTRICTIONS ON LOBBYING

I, Kenneth J. Hunter Vice President hereby certify
(Name and title of official)

On behalf of Boston Express Bus that:
(Name of Bidder/Company Name)

- 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 any agency, a Member of Congress, and 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.
- If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the 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.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients 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. 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.

Name of Bidder/Company Name: Boston Express Bus

Type or print name: Kenneth J. Hunter

Signature of authorized representative: [signature] Date 10 / 6 / 2023

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Recipients, contractors, and subcontractors that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) with which they propose to contract or subcontract is not excluded or disqualified. This is done by: (a) checking the SAM exclusions; (b) collecting a certification from that person (found below); or (c) adding a clause or condition to the contract or subcontract.

Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

(1) It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180,

(2) To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:

a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:

   1. Debarred,
   2. Suspended,
   3. Proposed for debarment,
   4. Declared ineligible,
   5. Voluntarily excluded, or
   6. Disqualified,

b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:

   1. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
   2. Violation of any Federal or State antitrust statute, or,
   3. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,

c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,

d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,

e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a – 2.d above, it will promptly provide that information to FTA,

f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:

   1. Equals or exceeds $25,000,,
   2. Is for audit services, or,
   3. Requires the consent of a Federal official, and

g. It will require that each covered lower tier contractor and subcontractor:

   1. Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
   2. Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:

      a. Debarred from participation in its federally funded Project,
      b. Suspended from participation in its federally funded Project,
      c. Proposed for debarment from participation in its federally funded Project,
      d. Declared ineligible to participate in its federally funded Project,
      e. Voluntarily excluded from participation in its federally funded Project, or
      f. Disqualified from participation in its federally funded Project, and

(3) It will provide a written explanation as indicated on a page attached in FTA's TrAMS platform or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third-Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

Certification

Contractor: Boston Express Bus

Signature of Authorized Official: [signature] Date 10 / 16 / 2023

Name and Title of Contractor's Authorized Official: Kenneth J. Hunter Vice President

FTA and 2 CFR 200 Agreement

Name of Awarding Agency: Federal Transit Administration (FTA)

Name of Recipient Agency: New Hampshire Department of Transportation (NHDOT)

Name of Subrecipient Agency: Boston Express Bus, Inc.

Boston Express Bus, Inc., shall comply with all applicable federal laws, regulations, and requirements as outlined in the most recent Federal Transit Administration (FTA) Master Agreement and Federal Certifications and Assurances. This award includes information required by 2 CFR Part 200 as follows:

FTA award project description: ***(As required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA)***

Amount: $1,650,000.00
Catalog of Federal Domestic Assistance (CDFA) number: 20.507
FTA Award Name: FTA Section 5307 ARPA
Federal Award Identification Number (FAIN): NH-2022-001
Federal Award Date: 1/24/22

Contact information for sub-awarding officials:
Name: Michelle L. Winters Title: Director of Aeronautics, Rail & Transit
Email: Michelle.L.Winters@dot.nh.gov Phone: 603-271-2449
Is this award for research and development? No
NHDOT's cost rate for the federal award: N/A

Subrecipient Information:
Subrecipient Name: Boston Express Bus, Inc.
Subrecipient SAM.GOV registration: J2S2FUEEKJ78
Name of authorizing subrecipient official: Kenneth J. Hunter
Title of authorizing subrecipient official: Vice President
Federal Clauses: Yes
Master Agreement/Certifications and Assurances: Yes
Subrecipient Federal indirect cost rate: N/A
(An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a De Minimis indirect cost rate as defined in §200.414 Indirect. (F&A) costs, paragraph (f)).

Subaward Period of performance:
Start Date: 1/1/24 End Date: 12/31/25

Total amount of FTA sub-award obligated by this action *(contract/amendment)*:
For FFY: 2024 Section: 5307 Amount: $1,650,000.00

Total amount of FTA sub-award committed to the *subrecipient* *(original contract & amendments)*:
For FFY: 2024 Section: 5307 Amount: $1,650,000.00

Pass-through requirements:

The subrecipient, Boston Express Bus, Inc. agrees to meet all requirements imposed by the pass-through entity (NHDOT) on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations, and the terms and conditions of the Federal award.

The subrecipient, Boston Express Bus, Inc. agrees to any additional requirements that the pass-through entity (NHDOT) imposes on the subrecipient in order for the pass-through entity (NHDOT) in order for the pass-through entity (NHDOT) to meet its own responsibility to the Federal awarding agency (FTA) including identification of any required financial and performance reports.

The subrecipient, Boston Express Bus, Inc. agrees to permit the pass-through entity (NHDOT) and auditors to have access to the subrecipients records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and appropriate terms and conditions concerning closeout of the subaward.

Date: Oct 6, 2023

Name of authorizing subrecipient official: Kenneth J. Hunter

Title of authorizing subrecipient official: Vice President

Signature of authorizing subrecipient official: Kenneth J. Hunter

FTA and 2 CFR 200 Agreement

Name of Awarding Agency: Federal Transit Administration (FTA)

Name of Recipient Agency: New Hampshire Department of Transportation (NHDOT)

Name of Subrecipient Agency: Boston Express Bus, Inc.

Boston Express Bus, Inc., shall comply with all applicable federal laws, regulations, and requirements as outlined in the most recent Federal Transit Administration (FTA) Master Agreement and Federal Certifications and Assurances. This award includes information required by 2 CFR Part 200 as follows:

FTA award project description: ***(As required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA)***

Amount: $550,000.00
Catalog of Federal Domestic Assistance (CDFA) number: 20.507
FTA Award Name: FTA Section 5307 CRRSSA
Federal Award Identification Number (FAIN): NH-2022-002
Federal Award Date: 1/24/22

Contact information for sub-awarding officials:
Name: Michelle L. Winters Title: Director of Aeronautics, Rail & Transit
Email: Michelle.L.Winters@dot.nh.gov Phone: 603-271-2449
Is this award for research and development? No
NHDOT's cost rate for the federal award: N/A

Subrecipient Information:
Subrecipient Name: Boston Express Bus, Inc.
Subrecipient SAM.GOV registration: J2S2FUEEKJ78
Name of authorizing subrecipient official: Kenneth J. Hunter
Title of authorizing subrecipient official: Vice President
Federal Clauses: Yes
Master Agreement/Certifications and Assurances: Yes
Subrecipient Federal indirect cost rate: N/A
(An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a De Minimis indirect cost rate as defined in §200.414 Indirect. (F&A) costs, paragraph (f)).

Subaward Period of performance:
Start Date: 1/1/24 End Date: 12/31/25

Total amount of FTA sub-award obligated by this action *(contract/amendment)*:
For FFY: 2024 Section: 5307 Amount: $550,000.00

Total amount of FTA sub-award committed to the *subrecipient* *(original contract & amendments)*:
For FFY: 2024 Section: 5307 Amount: $550,000.00

Pass-through requirements:

The subrecipient, Boston Express Bus, Inc. agrees to meet all requirements imposed by the pass-through entity (NHDOT) on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations, and the terms and conditions of the Federal award.

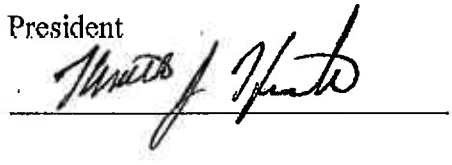
The subrecipient, Boston Express Bus, Inc. agrees to any additional requirements that the pass-through entity (NHDOT) imposes on the subrecipient in order for the pass-through entity (NHDOT) in order for the pass-through entity (NHDOT) to meet its own responsibility to the Federal awarding agency (FTA) including identification of any required financial and performance reports.

The subrecipient, Boston Express Bus, Inc. agrees to permit the pass-through entity (NHDOT) and auditors to have access to the subrecipients records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and appropriate terms and conditions concerning closeout of the subaward.

Date: Oct 16, 2023

Name of authorizing subrecipient official: Kenneth J. Hunter

Title of authorizing subrecipient official: Vice President

Signature of authorizing subrecipient official: 

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New Hampshire DOT
Department of Transportation

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

Victoria F. Sheehan
Commissioner

William Cass, P.E.
Assistant Commissioner

Bureau of Rail & Transit
January 20, 2021

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Transportation to enter into a **sole source** contract amendment with Boston Express Bus, Inc., (Vendor # 166250), Concord, NH, to increase the contract amount by $3,000,000.00 from $18,598,557.00 to $21,598,557.00, effective upon Governor and Council approval through December 31, 2023. The original agreement was approved by Governor and Council on January 16, 2008 (Item 214) and amended on June 8, 2011 (Item 174), November 9, 2011 (Item 122), June 18, 2014 (Item 184), and December 19, 2018 (Item 27). 100% Federal Funds.

Funding for this amendment is available as follows for FY 2021, and is contingent upon the availability and continued appropriation of funds in FY 2022, with the authority to adjust encumbrances in each of the State Fiscal Years through the Budget Office if needed and justified.

	FY 2021	FY 2022
04-96-96-964010-2050		
State Bus Services & Facilities		
103-502664 Contracts for Operational Services	$2,400,000.00	$600,000.00

EXPLANATION

Boston Express Bus, Inc. provides daily commuter bus service along the I-93 corridor between Manchester-North Londonderry (Exit 5)-Londonderry (Exit 4)-Salem (Exit 2)-Boston, from morning peak through evening peak hours (6:00 AM southbound to 7:00 PM northbound). Due to the coronavirus pandemic, Boston Express suspended service in March 2020 and though Boston Express resumed service in August 2020, passenger demand and fare revenues have been slow to recover as the pandemic persists. The requested $3,000,000.00 of Federal Transit Administration (FTA) funds provided via this **sole source** contract amendment will be used for net operating expenses and will enable Boston Express to continue to maintain its current level of service for commuters and intercity travelers, and to expand services as the pandemic subsides and passenger demand increases. Federal funds will be matched with approved Toll Credits, effectively using 100% Federal funds. The use of Toll Credits for this project was approved by the Capital Budget Overview Committee on October 7, 2020 (approval letter attached).

The Department entered into a contract agreement with Boston Express Bus, Inc. in 2008 to initiate commuter bus service along the I-93 corridor to Boston, using State and FHWA funds to defray

operating, preventative maintenance, capital procurement, and marketing expenses. The total revised contract amount, including previous amendments, is $21,598,557.00. The additional funding will allow Boston Express Bus to continue to provide bus service through December 31, 2023, including during the period of time impacted by the pandemic that is realizing significantly reduced passenger demand and fare revenues, and thus requiring the additional federal funding. This commuter bus service is a tremendous asset to the State and greatly appreciated by commuters and travelers.

All other provisions of the agreement shall remain in effect.

In the event that Federal Funds become unavailable, General Funds will not be requested in support of this project.

The Amendment has been approved by the Attorney General as to form and execution and the Department will verify the necessary funds are available for the contract period pending enactment of the Fiscal Year 2022 budget. Copies of the fully executed agreement are on file at the Secretary of State's Office and the Department of Administrative Services' Office, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Your approval of this resolution is respectfully requested.

Sincerely,

Victoria F. Sheehan

Victoria F. Sheehan
Commissioner

Attachments

CAP 20-014

MICHAEL W. KANE, MPA
Legislative Budget Assistant
(603) 271-3161

CHRISTOPHER M. SHEA, MPA
Deputy Legislative Budget Assistant
(603) 271-3161

State of New Hampshire

OFFICE OF LEGISLATIVE BUDGET ASSISTANT
State House, Room 102
Concord, New Hampshire 03301

STEPHEN C. SMITH, CPA
Director, Audit Division
(603) 271-2785

October 7, 2020

Victoria F. Sheehan, Commissioner
Department of Transportation
John O. Morton Building
7 Hazen Drive
Concord, New Hampshire 03302-0483

Dear Commissioner Sheehan,

The Capital Budget Overview Committee, pursuant to the provisions of RSA 228:12-a, on October 7, 2020 approved the request of the Department of Transportation, Bureau of Rail and Transit, request approval for; 1) the use of $2,500,000 in Turnpike Toll Credits, based on the total amended project costs which shall not exceed $5,000,000 in federal funds to meet funding match requirements for Boston Express Bus service along the F.E. Everett Turnpike and I-93 corridors between Manchester and Boston through December 31, 2023, and 2) the use of $120,000 in Turnpike Toll Credits, based on the total estimated project design and construction costs of $787,248, of which Dartmouth Coach has committed to providing up to $70,000 of the non-Federal match, to meet funding match requirements for the expansion of the New London Park and Ride Lot, subject to the conditions as specified in the request dated September 22, 2020.

Sincerely,

/s/ Michael W. Kane

Michael W. Kane
Legislative Budget Assistant

MWK/pe
Attachment

Cc: Patrick Herlihy, Bureau of Aeronautics, Rail and Transit, Department of Transportation
Shelley Winters, Bureau of Rail and Transit, Department of Transportation

AMENDMENT TO AGREEMENT #5

BOSTON EXPRESS BUS, INC. (I-93)

This Amendment to Agreement ("Amendment") is entered into this 12 day of January, 2021, by and between the State of New Hampshire, acting by and through the New Hampshire Department of Transportation, 7 Hazen Drive, Concord NH 03302-0483, (hereinafter referred to as "State") and Boston Express Bus, Inc. (hereinafter referred to as "the Contractor"), collectively referred to as "the Parties".

WHEREAS, the Parties entered into a contract, approved by the Governor and Executive Council on January 16, 2008, Item 214, for daily commuter bus service between Manchester and Boston on the I-93 corridor, amended June 8, 2011, Item 174; amended November 9, 2011, Item 122; amended June 18, 2014, Item 184; and amended December 19, 2018, Item 27 (herein referred to as "Agreement"), and this Agreement remains in effect;

WHEREAS, the Parties desire to amend the Agreement as provided in this Amendment; and

WHEREAS, the Agreement allows for amendments by an instrument in writing executed by both Parties

WHEREAS, the State has available Federal Transit Administration (FTA) funds to continue support of operations expenses for Boston Express Bus commuter bus service between Manchester-Londonderry-Salem-Boston;

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement, and set forth herein, the Parties hereto do hereby agree as follows:

1. Amend the Agreement to add Section 38 "FTA FLOW DOWN REQUIREMENT" to read: "The Contractor shall give the State Contract Administrator immediate written notification of any legal action or suit filed related in any way to the Contractor that may affect or result from the performance of duties under this Agreement as set forth in Section 39 (b) Flow Down Requirement of the Federal Transit Administration's Master Agreement."

2. Amend Exhibit B, Budget, B.1 to include an additional **$3,000,000.00** of FTA funds for net operating expenses (total operating expenses less revenues) for a revised contract amount of **$21;598,557.00**;

	EXISTING	AMENDED	REVISED
Net Operating Expenses (Total Operating Expenses less Revenues)	$15,249,253.00	$3,000,000.00	$18,249,253.00
Marketing Expenses	$810,000.00	$0.00	$810,000.00
Maintenance & Terminal Capital Equipment	$888,416.00	$0.00	$888,416.00
Park & Ride Facility Maintenance	$260,888.00	$0.00	$260,888.00
Vehicle Capital Expenses	$1,390,000.00	$0.00	$1,390,000.00
Contract Amount	**$18,598.577.00**	**$3,000,000.00**	**$21,598,577.00**

This Amendment hereunder shall become effective upon approval by the New Hampshire Governor and Executive Council.

Except as specifically amended and modified by the terms and conditions of this Amendment, the Agreement and the obligations of the Parties hereunder, shall remain in full force and effect with the terms and conditions set forth herein.

IN WITNESS WHEREOF, the Parties hereto have set their hands to the date first-written above.

Boston Express Bus, Inc.

By: _____ Date: 1/12/2021

Print Name and Title: Kenneth J. Hunter Vice President

NH Department of Transportation

By: _____ Date: 1/28/2021

Print Name and Title: Patrick C. Herlihy
Director
Aeronautics, Rail and Transit

Approved by Attorney General

By: _____ Date: 2/18/2021

Print Name and Title: Allison B Greenstein, Assistant Attorney General

Approved by Governor and Executive Council

By: _____ Date: _____

EXHIBITS TO CONTRACT AMENDMENT

Boston Express Bus, Inc.

Amendment Signature Page

Table of Contents

Certificate of Good Standing

Certificate of Corporate Vote

Certificate of Insurance

Federal Clauses and Certifications

2 CFR Part 200

Amended G & C Contract Item #27, Approved December 19, 2018

Amended G & C Contract Item #184, Approved June 18, 2014

Amended G & C Contract Item #122, Approved November 9, 2011

Amended G & C Contract Item #174, Approved June 8, 2011

Original G & C Contract Item #214, Approved January 16, 2008

State of New Hampshire
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that BOSTON EXPRESS BUS, INC. is a New Hampshire Profit Corporation registered to transact business in New Hampshire on October 10, 2006. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 565563
Certificate Number: 0004982462

IN TESTIMONY WHEREOF,
I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 20th day of August A.D. 2020.

William M. Gardner
Secretary of State

Boston Express Bus, Inc.

CERTIFICATE OF VOTE

I, Harry W. Blunt, hereby certify that I am the President of Boston Express Bus, Inc.

I hereby certify the following is a true copy of a vote taken at a special meeting of the Board of Directors of the corporation held on January 11, 2021 at an office of the corporation in Concord, New Hampshire, at which a quorum of the Board was present and voting.

VOTED: That Kenneth J. Hunter, as Vice President of said corporation, is hereby authorized and empowered to execute all documents between the State of New Hampshire, and its subdivisions, and Boston Express Bus, Inc. relating to the corporation's intercity bus service. Further, authorizing said officer to execute any documents which may in his judgment be desirable or necessary to affect the purpose of this vote.

I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of the date of the contract to which this certificate is attached. This authority remains valid for thirty (30) days from the date of this Corporate Resolution. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person(s) listed above currently occupy the position(s) indicated and that they have full authority to bind the corporation. To the extent that there are any limits on the authority of any listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are expressly stated herein.

KELSEA J HALE NOTARY PUBLIC MY COMMISSION EXPIRES 11/25/2024 STATE OF NEW HAMPSHIRE

Harry W. Blunt
President
Boston Express Bus, Inc.

Subscribed and sworn before me this 11th day of January 2021.

Kelsea J Hale
NOTARY PUBLIC
State of New Hampshire
My Commission Expires 11/25/2024

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 1/11/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER THE ROWLEY AGENCY INC. 45 Constitution Avenue P.O. Box 511 Concord NH 03302-0511	CONTACT NAME: Jennifer Letendre PHONE (A/C, No, Ext): (603)224-2562 FAX (A/C, No): (603)224-8012 E-MAIL ADDRESS: jletendre@rowleyagency.com
INSURED Boston Express Bus, Inc. 7 Langdon Street Concord NH 03301	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A: National Interstate Ins Co — 32620 INSURER B: Acadia Insurance Company — 31325 INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES CERTIFICATE NUMBER: 20/21 BE cert REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR X Primary GL layer GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY [ ] PRO-JECT [ ] LOC OTHER:	X		YPP1107620-14	5/01/2020	5/01/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 5,000,000 $ 50,000 $ 5,000 $ 5,000,000 $ 5,000,000 $ 5,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO X ALL OWNED AUTOS X HIRED AUTOS [ ] SCHEDULED AUTOS X NON-OWNED AUTOS	X		YPP1107620-14	5/01/2020	5/01/2021	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 100,000 $ $ $
A	UMBRELLA LIAB [X] OCCUR X EXCESS LIAB [ ] CLAIMS-MADE DED X RETENTION $ 0			Excess of primary auto only YEX1107620-14 YEX1107621-14	5/01/2020	5/01/2021	EACH OCCURRENCE AGGREGATE	$ 9,900,000 $ 9,900,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		Sect 3A States: NH,MA,ME,NY WCA5326280-13	12/31/2020	12/31/2021	X PER STATUTE - OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 500,000 $ 500,000 $ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The State of New Hampshire, Department of Transportation is additional insured w/ respects to general & auto liabiliy when required by written contract.

CERTIFICATE HOLDER	CANCELLATION
State of New Hampshire DOT 7 Hazen Dr. Concord, NH 03301	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Robert Simpson/JLP

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Boston Express I93 Amendment

Operations & Management

$ 3,000,000

Sole Source

pmaybennett
paula.bennett@dot.nh.gov

New Hampshire DOT
7 Hazen Dr
Concord, New Hampshire 03301
(603) 271-3734

https://www.nh.gov/dot/

Federal Clauses

ACCESS TO RECORDS AND REPORTS

a. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-Contracts, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records.

b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

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

AMERICANS WITH DISABILITIES ACT(ADA)

The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

BYRD ANTI-LOBBYING AMENDMENT

Contractors who apply or bid for an award of $100,000 or more shall file the required certification. 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 any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Agency."

CHARTER SERVICE

The contractor agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. 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 as permitted under: 1. Federal transit laws, specifically 49 U.S.C. § 5323(d); 2. FTA regulations, "Charter Service," 49 C.F.R. part 604; 3. Any other federal Charter Service regulations; or 4. Federal guidance, except as FTA determines otherwise in writing.

The contractor agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: 1. Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA; 2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or 3. Any other appropriate remedy that may apply. The contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

CIVIL RIGHTS LAWS AND REGULATIONS

The following Federal Civil Rights laws and regulations apply to all contracts.

1 Federal Equal Employment Opportunity (EEO) Requirements. These include, but are not limited to:

a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.

b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.

2 Nondiscrimination on the Basis of Sex. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.

3 Nondiscrimination on the Basis of Age. The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.

4 Federal Protections for Individuals with Disabilities. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq.,

prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Civil Rights and Equal Opportunity
The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. Nondiscrimination. In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

4. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of $150,000:

Clean Air Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FTA.

Federal Water Pollution Control Act

(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.

(2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FTA."

CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs.

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

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

d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

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

Compliance with the Contract Work Hours and Safety Standards Act.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

DEBARMENT AND SUSPENSION

a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs for a contract in the amount of at least $25,000

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) The accompanying certification is a material representation of fact relied upon by the subrecipient. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Agency and subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, 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."

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

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

(1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 C.F.R. § 26.29(a).

Finally, for contracts with defined DBE contract goals, each FTA Recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency's written consent; and that, unless the Agency's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

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

DHS SEAL, LOGO, AND FLAGS

The contractor shall not use the Search Results
Web results

Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FTA pre-approval.

ENERGY CONSERVATION

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

EQUAL EMPLOYMENT OPPORTUNITY

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

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

FEDERAL CHANGES

49 CFR Part 18 Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between 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.

FLY AMERICA

a) Definitions. As used in this clause—
1) "International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States. 2) "United States" means the 50 States, the District of Columbia, and outlying areas. 3) "U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencys, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel

(and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers
International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

Incorporation of Federal Transit Administration (FTA) Terms - The provisions within 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 the current FTA Circular 4220 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 Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

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

PROCUREMENT OF RECOVERED MATERIALS

(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—
i. Competitively within a timeframe providing for compliance with the contract performance schedule;
ii. Meeting contract performance requirements; or
iii. At a reasonable price.

(2) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program."

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract."

PROMPT PAYMENT

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

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

PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1. U.S. DOL Certification. Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.

2. Special Warranty. When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.

1. Special Arrangements. The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

SAFE OPERATION OF MOTOR VEHICLES

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

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

SCHOOL BUS OPERATIONS

The contractor agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
2. FTA regulations, "School Bus Operations," 49 C.F.R. part 605
3. Any other Federal School Bus regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

If Contractor violates this School Bus Agreement, FTA may:
1. Bar the Contractor from receiving Federal assistance for public transportation; or
2. Require the contractor to take such remedial measures as FTA considers appropriate.

When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities.

The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

SPECIAL NOTIFICATION REQUIREMENTS FOR STATES

Applies to States –

a. To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:

(1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
(2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
(3) The amount of federal assistance FTA has provided for a State Program or Project.

b. Documents - The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

SUBSTANCE ABUSE REQUIREMENTS

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency, or Agency, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with part 655 and to submit the Management Information System (MIS) reports to the Agency.

TERMINATION

Termination for Convenience (General Provision)
The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency'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 Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs.

Termination for Default [Breach or Cause] (General Provision)
If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Agency may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the Agency 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 Agency, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

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

If Contractor fails to remedy to Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Agency setting forth the nature of said breach or default, Agency 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 Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

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

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

Termination for Default (Supplies and Service)
If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

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 Agency may terminate this contract for default. The Agency 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 Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve the goods until surrendered to the Agency or its agent. The Contractor and Agency 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 Agency.

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

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if: 1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and 2. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract. 3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Agency.

Termination for Convenience or Default (Architect and Engineering)
The Agency may terminate this contract in whole or in part, for the Agency's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Agency 's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. Agency has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

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

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

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 Agency

Termination for Convenience or Default (Cost-Type Contracts)
The Agency may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of Agency 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 Agency, or property supplied to the Contractor by the Agency. If the termination is for default, the Agency 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 Agency and the parties shall negotiate the termination settlement to be paid the Contractor.

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

VIOLATION AND BREACH OF CONTRACT

Rights and Remedies of the Agency

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

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

For purposes of this Contract, breach shall include.

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

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

Disputes
Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by an authorized representative of Agency. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Agency's authorized representative. 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 Agency's authorized representative shall be binding upon the Contractor and the Contractor shall abide be the decision.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation.

Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

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

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

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

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

Federal Certifications

CERTIFICATION AND RESTRICTIONS ON LOBBYING

I Kenneth J. Hunter Vice President hereby certify
(Name and title of official)

On behalf of Boston Express Bus Inc. that:
(Name of Bidder/Company Name)

- 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 any agency, a Member of Congress, and 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.
- If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the 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.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients 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.

The undersigned certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801, et seq., are applicable thereto.

Name of Bidder/Company Name: Boston Express Bus Inc.

Type or print name: Kenneth J. Hunter

Signature of authorized representative: [signature] Date 1/12/2024

Signature of notary and SEAL: [signature]

KELSEA J HALE NOTARY PUBLIC MY COMMISSION EXPIRES 11/25/2024 STATE OF NEW HAMPSHIRE

Kelsea J Hale
NOTARY PUBLIC
State of New Hampshire
My Commission Expires 11/25/2024

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

(1) It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180,

(2) To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:

a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:

1. Debarred,
2. Suspended,
3. Proposed for debarment,
4. Declared ineligible,
5. Voluntarily excluded, or
6. Disqualified,

b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:

1. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
2. Violation of any Federal or State antitrust statute, or,
3. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,

c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,

d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,

e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a – 2.d above, it will promptly provide that information to FTA,

f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:

1. Equals or exceeds $25,000,,
2. Is for audit services, or,
3. Requires the consent of a Federal official, and

g. It will require that each covered lower tier contractor and subcontractor:

1. Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
2. Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:

a. Debarred from participation in its federally funded Project,
b. Suspended from participation in its federally funded Project,
c. Proposed for debarment from participation in its federally funded Project,
d. Declared ineligible to participate in its federally funded Project,
e. Voluntarily excluded from participation in its federally funded Project, or
f. Disqualified from participation in its federally funded Project, and

3. It will provide a written explanation as indicated on a page attached in FTA's TrAMS platform or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third-Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

(3) It will provide a written explanation as indicated on a page attached in FTA's TrAMS platform or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third-Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

Certification

Contractor: Boston Coach Corporation

Signature of Authorized Official: _____ Date 1 / 12 / 2021

Name and Title of Contractor's Authorized Official: Kenneth J. Hunter Vice President

FTA and 2 CFR 200 Agreement

Name of Awarding Agency: Federal Transit Administration (FTA)

Name of Recipient Agency: New Hampshire Department of Transportation (NHDOT)

Name of Subrecipient Agency: Boston Express Bus, Inc.

Boston Express Bus, Inc., shall comply with all applicable federal laws, regulations, and requirements as outlined in the most recent Federal Transit Administration (FTA) Master Agreement and Federal Certifications and Assurances. This award includes information required by 2 CFR Part 200 as follows:

FTA award project description: ***(As required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA)***

Amount: $3,000,000.00
Catalog of Federal Domestic Assistance (CDFA) number: 20.507
FTA Award Name: FTA SECTION 5307 URBANIZED AREA FORMULA
Federal Award Identification Number (FAIN): TBD
Federal Award Date: TBD

Contact information for sub-awarding official:
Name: Patrick C. Herlihy Title: Director of Aeronautics, Rail & Transit
Email: Patrick.Herlihy@dot.nh.gov Phone: 603-271-2449
Is this award for research and development? No
NHDOT's cost rate for the federal award: N/A

Subrecipient Information:
Subrecipient Name: Boston Express Bus, Inc.
Subrecipient DUNS number: 012410029
Subrecipient SAM.GOV registration: 4GPG3
Name of authorizing subrecipient official: Kenneth J. Hunter
Title of authorizing subrecipient official: Vice President
Federal Clauses: Yes
Master Agreement/Certifications and Assurances: Yes
Subrecipient Federal indirect cost rate: N/A
(An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a De Minimis indirect cost rate as defined in §200.414 Indirect. (F&A) costs, paragraph (f)).

Subaward Period of performance:
Start Date: TBD (based on contract approval) End Date: 12/31/23

Total amount of FTA sub-award obligated by this action *(contract/amendment)*:
For FFY: 2021 Section: 5307 Amount: $3,000,000.00

Total amount of FTA sub-award committed to the *subrecipient* *(original contract & amendments)*:
For FFY: 2021 Section: 5307 Amount: $10,458,556.00

Pass-through requirements:

The subrecipient, Boston Express Bus, Inc. agrees to meet all requirement imposed by the pass-through entity (NHDOT) on the subrecipient so that the Federal award is used in accordance with Federal statues, regulations and the terms and conditions of the Federal award.

The subrecipient, Boston Express Bus, Inc. agrees to any additional requirements that the pass-through entity (NHDOT) imposes on the subrecipient in order for the pass-through entity (NHDOT) in order for the pass-through entity (NHDOT) to meet its own responsibility to the Federal awarding agency (FTA) including identification of any required financial and performance reports.

The subrecipient, Boston Express Bus, Inc. agrees to permit the pass-through entity (NHDOT) and auditors to have access to the subrecipients records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and appropriate terms and conditions concerning closeout of the subaward.

Date: 1/12/2021

Name of authorizing subrecipient official: Kenneth J. Hunter

Title of authorizing subrecipient official: Vice President

Signature of authorizing subrecipient official: Kenneth J. Hunter

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New Hampshire DOT
Department of Transportation

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

Victoria F. Sheehan
Commissioner

William Cass, P.E.
Assistant Commissioner

Bureau of Rail & Transit
December 3, 2018

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Transportation to enter into a sole source contract amendment with Boston Express Bus, Inc., (Vendor # 166250), Concord, NH, to increase the contract amount by $6,986,313.00 from $11,612,244.00 to $18,598,557.00, effective upon Governor and Council approval and to extend the completion date from December 31, 2018 to December 31, 2023, effective upon Governor and Council approval. The original agreement was approved by Governor and Council on January 16, 2008 (Item 214) and amended on June 8, 2011 (Item 174), November 9, 2011 (Item 122) and June 18, 2014 (Item 184). 100% Federal funds.

Funding for this amendment is available as follows for FY 2019, and is contingent upon the availability and continued appropriation of funds in FY 2020 through FY 2024, with the authority to adjust encumbrances in each of the State fiscal years through the Budget Office if needed and justified.

		FY 2019	FY 2020	FY 2021
04-96-96-964010-2050				
State Bus Services & Facilities				
030-500331	Equipment – General (Replace)	$ 82,600.00	$ 100,000.00	$ 139,000.00
037-500172	Equipment - Computer Hardware	$ 2,000.00	$ 6,000.00	$ 15,000.00
048-500226	Contract Repairs – Bldgs/Grounds	$ 7,500.00	$ 40,000.00	$ 70,000.00
103-502664	Contracts for Operational Services	$480,681.00	$1,084,236.00	$1,230,975.00

		FY 2022	FY 2023	FY 2024
04-96-96-964010-2050				
State Bus Services & Facilities				
030-500331	Equipment – General (Replace)	$ 7,000.00	$ 0	$ 0
037-500172	Equipment - Computer Hardware	$ 7,000.00	$ 0	$ 0
048-500226	Contract Repairs – Bldgs/Grounds	$ 25,000.00	$ 13,000.00	$ 0
103-502664	Contracts for Operational Services	$1,341,974.00	$1,524,451.00	$809,896.00

EXPLANATION

Boston Express Bus, Inc. provides daily commuter bus service along the I-93 corridor between Manchester-North Londonderry (Exit 5)-Londonderry (Exit 4)-Salem (Exit 2)-Boston, from morning peak through evening peak hours (5:00 AM southbound to 6:30 PM northbound). This sole source

contract amendment will maintain the current level of service without interruption while adequately addressing escalating operational and maintenance expenses. This amendment provides an additional $6,986,313.00 of Federal Transit Administration (FTA) funds to assist with net operating expenses, capital facility repairs, maintenance and terminal capital equipment, and park and ride facility maintenance through December 31, 2023. Federal funds will be matched with approved Toll Credits, effectively using 100% Federal funds. The use of Toll Credits for this project was approved by the Capital Budget Overview Committee on November 29, 2018 (approval letter attached).

The Department entered into a contract agreement with Boston Express Bus, Inc. in 2008 to initiate commuter bus service along the I-93 corridor to Boston, using State and FHWA funds to defray operating, preventative maintenance, capital procurement, and marketing expenses. The total revised contract amount, including previous amendments, is $18,598,557.00. The additional funding will allow Boston Express Bus to maintain existing service levels through December 31, 2023. This commuter bus service is well utilized and is a tremendous asset to the State and greatly appreciated by commuters and travelers, with ridership at approximately 30,000 per month or 360,000 total for calendar year 2017.

All other provisions of the agreement shall remain in effect.

In the event that Federal Funds become unavailable, General Funds will not be requested in support of this project.

The Amendment has been approved by the Attorney General as to form and execution and the Department will verify the necessary funds are available for the contract period pending enactment of the Fiscal Year 2020 through 2024 budgets. Copies of the fully executed agreement are on file at the Secretary of State's Office and the Department of Administrative Services' Office, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Your approval of this resolution is respectfully requested.

Sincerely,

Victoria F. Sheehan
Commissioner

Attachments

CAP 18-025

MICHAEL W. KANE, MPA
Legislative Budget Assistant
(603) 271-3161

CHRISTOPHER M. SHEA, MPA
Deputy Legislative Budget Assistant
(603) 271-3161

State of New Hampshire

OFFICE OF LEGISLATIVE BUDGET ASSISTANT
State House, Room 102
Concord, New Hampshire 03301

STEPHEN C. SMITH, CPA
Director, Audit Division
(603) 271-2785

November 30, 2018

Victoria F. Sheehan, Commissioner
Department of Transportation
John O. Morton Building
7 Hazen Drive
Concord, New Hampshire 03302-0483

RECEIVED
COMMISSIONERS OFFICE
DEC 03 2018
THE STATE OF NEW HAMPSHIRE
DEPT. OF TRANSPORTATION

Dear Commissioner Sheehan,

The Capital Budget Overview Committee, pursuant to the provisions of RSA 228:12-a, on November 29, 2018 approved the request of the Department of Transportation, Bureau of Rail and Transit, to use $3,809,726 of Turnpike Toll Credit, based on the total amended project costs not to exceed $9,032,077 in federal funds to meet funding match requirements for; Boston Express Bus service along the F.E. Everett Turnpike and I-93 corridors between Manchester and Boston through December 31, 2023, subject to the conditions as specified in the request dated October 22, 2018.

Sincerely,

Michael W. Kane
Legislative Budget Assistant

MWK/pe
Attachment

Cc: Patrick Herlihy, Division of Aeronautics, Rail and Transit, Dept. of Transportation

AMENDMENT TO AGREEMENT #4

BOSTON EXPRESS BUS, INC. (I-93)

WHEREAS, the Governor and Council approved an agreement between the New Hampshire Department of Transportation (NHDOT) and Boston Express Bus, Inc. on January 16, 2008, Item 214, for daily commuter bus service from Manchester to Boston on I-93, amended June 8, 2011, Item 174; amended November 9, 2011, Item 122; and amended June 18, 2014, Item 184.

WHEREAS, the Department of Transportation has available Federal funds to continue support of operations, marketing, facility repair and improvements, and vehicle capital expenses for Boston Express Bus commuter service that runs along the I-93 corridor between Manchester-Londonderry-Salem-Boston;

WHEREAS, the Department of Transportation and Boston Express Bus Inc. have agreed to revise certain provisions in the contract agreement;

WHEREAS, the Department and Boston Express Bus, Inc. wish to invoke the five-year renewal option identified in Section 2. Definitions of the Agreement and amend the completion date from December 31, 2018 to December 31, 2023;

WHEREAS, Section 25. TERMINATION, 25.4, Termination Procedures/Requirements, as amended, reads "The contract shall continue to remain in force and effect for the entire ten (10) year period specified and any subsequent extension period, unless terminated sooner in one of the following ways."

WHEREAS, Exhibit A, Scope of Services, A.4, as amended, reads, "The Contractor shall utilize fifteen (15) ADA-compliant MCI commuter coaches to be purchased by the State and identified by Vehicle Identification Numbers to be appended to this agreement."

WHEREAS, Exhibit A, Scope of Services, as amended, contains items A.1 through A.8;

WHEREAS, the Department wishes to increase the amended Contract price of **$11,612,244** by **$6,986,313** amending the revised total contract amount to **$18,598,557**.

RESOLVED, that the agreement be amended to include new and revised language for the following Sections and Exhibits:

Amend the contract to revise Section 2. Definitions, Completion Date to read: "Completion date of the contract shall be December 31, 2023. Upon the Completion Date, the Contractor shall return all project equipment to the State and vacate any State-owned property utilized for the services and any project equipment shall be returned to the State."

Amend the contract to revise Section 25.4, Termination Procedures/Requirements to read, "The contract shall continue to remain in force and effect for the entire period specified above, unless terminated, in whole or in part, sooner in one of the following ways."

Amend the contract to revise Exhibit A, Scope of Services, A.1 to remove "The contract period is 10 years" and replace with "The contract period is through December 31, 2023."

Amend the contract to revise Exhibit A, Scope of Services, A.4 to read, "The Contractor shall utilize State-owned ADA-compliant commuter coaches to be purchased by the State. In the event one or more coaches become unavailable due to accident or other loss, the State and Contractor agree to use available funding to provide replacement equipment."

Amend the contract to revise Exhibit A, Scope of Services, to remove item A.8.

Amended Exhibit B, Budget, Section B.1, be amended to include an additional **$6,986,313** of Federal funding for the net operating expenses (total operating expenses less revenues), marketing expenses, maintenance and terminal capital equipment, park and ride facility maintenance, and vehicle capital expenses for a revised Contract Price of **$18,598,557**, as identified in Section B.3.

	Existing Contract	Proposed Amendment #4	Amended Contract
Net Operating Expenses (Total Operating Expenses – Revenues)	$8,777,040	$6,472,213	$15,249,253
Marketing Expenses	$810,000	$0	$810,000
Maintenance & Terminal Capital Equipment	$529,816	$358,600	$888,416
Park & Ride Facility Maintenance	$105,388	$155,500	$260,888
Vehicle Capital Expenses	$1,390,000	$0	$1,390,000
Contract Amount	**$11,612,244**	**$6,986,313**	**$18,598,557**

Amended Exhibit B, Budget, Section B.3, be amended to read, "The Contractor may seek reimbursement for eligible expenses listed in the Project Budget and its approved detailed budget. Requests for reimbursement shall include a detailed statement of expenses utilizing the State's transit accounts, a statement of revenues, and a request for reimbursement for the net operating expenses (total operating expenses less revenues), marketing expenses, maintenance and terminal capital equipment, park and ride facility maintenance, and vehicle capital expenses. The Contractor will invoice the State for reimbursement of eligible project expenses after the completion of approved work and items. Total reimbursements may not exceed the amended contract price of **$18,598,557**. The Contractor will continue to operate commuter bus service under the terms of the agreement until the Completion Date, using the State-owned equipment."

All other provisions of the agreement shall remain in effect.

All amended Sections and Exhibits appear below.

AMENDED SECTIONS AND EXHIBITS

2. DEFINITIONS

Completion Date: Completion date of the contract shall be December 31, 2023. Upon the Completion Date, the Contractor shall return all project equipment to the State and vacate any State-owned property utilized for the services and any project equipment shall be returned to the State.

25.4 Termination Procedures/Requirements

The contract shall continue to remain in force and effect for the entire period specified above, unless terminated, in whole or in part, sooner in one of the following ways:

a) By the State for cause if the Contractor is in material breach of a term or terms of the contract which is/are not corrected within thirty (30) days of written notice to cure given by the State to the Contractor;
b) By the Contractor for cause if the State is in material breach of a term or terms of the contract which is/are not corrected within thirty (30) days of written notice to cure given by the Contractor to the Department;
c) Notwithstanding any language in the Contract to the contrary the State or Contractor may terminate the Contract without cause upon ninety (90) days written notice; or,
d) Upon a mutual determination and agreement that continued performance under the contract is not desirable.

In the event of termination under (b) above, the Contractor may pursue all of its remedies at law or in equity. Damages consisting of anticipated profits and amounts for the purchase of equipment will not be paid under any circumstances.

In the event of termination under (a) above, the State may engage the services of others to continue work for the balance of the contract period without benefit of competitive bidding, and the Contractor shall compensate the State for the actual costs to reissue a subsequent Request for Proposal (RFP) to secure another Contractor to operate the facility.

In the event of termination under (c) above, if the Contractor terminates the contract within the first twelve months of the contract term, even with having provided ninety (90) days written notice, the Contractor agrees to compensate the State for the actual costs to reissue a subsequent RFP to secure another Contractor to operate the facility.

In the event of termination under (d) above, the termination shall take effect sixty (60) days after the parties reach a mutual determination to terminate. Upon the termination taking effect, both parties shall, effective the date of the termination, be exonerated of any and all further liabilities and/or obligations under the contract.

The Contractor may, upon termination of the contract, remove all moveable furniture, trade fixtures and equipment belonging to the Contractor, repairing any damage caused by such removal. Property not so removed shall be deemed abandoned by the Contractor, and the State may, at its option, keep the same for its use or remove the same in

any manner as the State shall choose, and the Contractor shall pay on demand any and all expenses incurred in such removal.

EXHIBIT A
SCOPE OF SERVICES
Revised

The Contractor shall provide the following amended services:

A.1. Daily intercity commuter bus service between Manchester, North Londonderry (Exit 5), Londonderry (Exit 4), and Salem (Exit 2) and other stops approved by the State and Boston, Massachusetts, with minimum service hours extending from morning peak through evening peak hour, or 5:00 am southbound to 6:30 pm northbound departures, on weekdays. The Contractor and the State will negotiate terms and a budget for service to Windham (Exit 3) upon construction of a park and ride facility there, should the State determine that a need exists for bus service at that location. The contract period is through December 31, 2023 and the project provides funding for the operation and marketing associated with the service.

A.2. The Contractor submit a schedule prior to the Commencement Date for the approval of the State, and shall not change, add, or delete any route or make any fare, service or operating schedule adjustments without the prior written approval of the State, except in an emergency situation. In such an emergency, the Contractor shall notify the State no later than the next working day following the day of such changes. Such change shall be valid for five days; thereafter, the written approval of the State shall be required.

A.3. The Contractor shall manage and operate bus terminals at Exit 5, Exit 4 and Exit 2 of Interstate 93 and a bus maintenance facility and bus storage facility located at Exit 5.

A.4. The Contractor shall utilize State-owned ADA-compliant commuter coaches to be purchased by the State. In the event one or more coaches become unavailable due to accident or other loss, the State and Contractor agree to use available funding to provide replacement equipment.

A.5. The Contractor shall develop and implement with the State's approval a marketing and customer service program to inform commuters and the general public about the service and to provide an opportunity for customer comment and suggestions for service improvements.

A.6. The Contractor will make approved transit facility repairs and improvements at the State-owned bus terminals at Exit 5, Exit 4 and Exit 2 of Interstate 93, and the bus maintenance facility and the bus storage facility located at Exit 5.

A.7. The Contractor will procure non-revenue replacement equipment, upon approval of NHDOT, incompliance with FTA Circular 4220.1F or as amended.

EXHIBIT B
BUDGET
Revised

B.1. The Contract Price is the reimbursable portion of the eligible project costs. The amended Project and Contract Price are:

	Existing Contract	Proposed Amendment #4	Amended Contract
Net Operating Expenses (Total Operating Expenses – Revenues)	$8,777,040	$6,472,213	$15,249,253
Marketing Expenses	$810,000	$0	$810,000
Maintenance & Terminal Capital Equipment	$529,816	$358,600	$888,416
Park & Ride Facility Maintenance	$105,388	$155,500	$260,888
Vehicle Capital Expenses	$1,390,000	$0	$1,390,000
Contract Amount	**$11,612,244**	**$6,986,313**	**$18,598,557**

B.2 At least fourteen days prior to the submission of the Contractor's first request for reimbursement, the Contractor shall submit to the State a detailed budget including any revisions to its budget, incorporating all funds to be expended in the provision of services pursuant to this contract. Budget revisions may be made with written approval of the State, and are limited to the six-month interval and year-end of the contract.

B.3. The Contractor may seek reimbursement for eligible expenses listed in the Project Budget and its approved detailed budget. Requests for reimbursement shall include a detailed statement of expenses utilizing the State's transit accounts, a statement of revenues, and a request for reimbursement for the net operating expenses (total operating expenses less revenues), marketing expenses, maintenance and terminal capital equipment, park and ride facility maintenance, and vehicle capital expenses. The Contractor will invoice the State for reimbursement of eligible project expenses after the completion of approved work and items. Total reimbursements may not exceed the amended contract price of $18,598,557. The Contractor will continue to operate commuter bus service under the terms of the agreement until the Completion Date, using the State-owned equipment.

Boston Express Bus, Inc.

BENJAMIN W. BLUNT — Date: 11/6/2018

Name

VICE PRESIDENT

Title

Signature

NH Department of Transportation

Patrick C. Herlihy — Date: 11/26/18

Name

Director
Aeronautics, Rail and Transit

Title

Signature

Approved by Attorney General

Allison Greenstein — Date: 11/27/18

Name

Asst. Attorney General

Title

Allison Greenstein

Signature

Approved by Governor and Council

_____ Date: _____

Federal Clauses

Fly America Requirements

Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases ($3,500 or less, except for construction contracts over $2,000).

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

Charter Bus Requirements

These requirements do not apply to micro-purchases ($3,500 or less, except for construction contracts over $2,000).

Contractor shall comply with 49 USC 5323(d) and (g) and 49 CFR 604, which state that recipients and subrecipients of FTA assistance may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "Charter Service," 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.

School Bus Requirements

School Bus Requirements – Applicability – Operational Service Contracts. These requirements do not apply to micro-purchases ($3,500 or less, except for construction contracts over $2,000). Pursuant to 69 USC 5323(f) or (g) as amended by MAP-21, 23 USC 133, 23 USC 142, and 49 CFR 605, recipients and subrecipients of FTA assistance shall not engage in school bus operations exclusively for 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 shall not use federally funded equipment, vehicles, or facilities. Violations. If a Recipient or any Third Party Participant that has operated school bus service in violation of FTA's School Bus laws and regulations, FTA may: (1) Require the Recipient or Third Party Participant to take such remedial measures as FTA considers appropriate, or (2) Bar the Recipient or Third Party Participant from receiving Federal transit funds.

Energy Conservation

All Contracts except micro-purchases ($3,500 or less, except for construction contracts over $2,000)

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

Clean Water

Applicability – All Contracts and Subcontracts over $150,000. Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding $100,000 financed in whole or in part with FTA assistance.

Lobbying

Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over $150,000

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 $150,000 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.

Access to Records and Reports

Applicability -- As shown below. These requirements do not apply to micro-purchases ($3,500 or less, except for construction contracts over $2,000)
The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.

2. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at $150,000.

3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4. Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

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

6. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR

18.39(i)(11).

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

Federal Changes

All Contracts except micro-purchases ($3,500 or less, except for construction contracts over $2,000)
Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

Clean Air

Applicability – All contracts over $150,000.
1) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.
2) Contractor shall include these requirements in each subcontract exceeding $150,000 financed in whole or in part with FTA assistance.

Recycled Products

All contracts for items designated by the EPA, when the purchaser or contractor procures $10,000 or more of one of these items during the current or previous fiscal year using Federal funds. 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 12073, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

Contract Work Hours & Safety Standards Act

Applicability – Contracts over $150,000

(1) Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in para. (1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section.

(3) Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours & Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in para. (2) of this section.

(4) Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

No Government Obligation to Third Parties

Applicability – All contracts except micro-purchases ($3,500 or less, except for construction contracts over $2,000)

(1) The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

Program Fraud and False or Fraudulent Statements or Related Acts

Applicability – All contracts except micro-purchases ($3,500 or less, except for construction contracts over $2,000)
(1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.
(2) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.
(3) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Termination

Applicability – All Contracts over $10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is $150,000

a. Termination for Convenience (General Provision) the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.

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

recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract.
If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions
If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the 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.

f. Termination for Default (Supplies and Service) If contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.
If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

g. Termination for Default (Transportation Services) If 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 contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall 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 contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

h. Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified, or any extension, or fails to complete the

work within this time, or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. the recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. In this event, the recipient may take over the work and compete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. Contractor and its sureties shall be liable for any damage to the recipient resulting from contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the recipient in completing the work.

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

1. Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and

2. Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

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

i. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contact or otherwise and contractor shall be liable for any additional cost incurred by the recipient.
If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

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

Government Wide Debarment and Suspension (Non Procurement)

The Recipient agrees to the following: (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following: (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, (b) It will review the U.S. GSA "System for Award Management," http://https.www.sam.gov,.proxy1.semalt.design if required by U.S. DOT regulations, 2 C.F.R. part 1200, and (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at http://https.www.sam.gov,.proxy1.semalt.design if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and (2) If the Recipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel.

Contracts Involving Federal Privacy Act Requirements

When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases ($3,500 or less, except for construction contracts over $2,000)

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.

Civil Rights Requirements

Applicability – All contracts except micro-purchases ($3,500 or less, except for construction contracts over $2,000)

The following requirements apply to the underlying contract:

The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service:

a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA's "Nondiscrimination" statute): (1) FTA's "Nondiscrimination" statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, (g) Age, or (h) Gender identity and (2) The FTA "Nondiscrimination" statute's prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, (3) Except as FTA determines otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance, and
2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program,

b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued,

c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer".

(3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,

d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged

Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding $250,000 in a Federal fiscal year must: 1 Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 Implement a DBE program approved by FTA, and 3 Establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.,

(2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation,

e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of "employer," (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations,

"Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37, (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27, (c) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35, (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36, (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance.

h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2.

i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following: 1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005.

j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination.

k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

Breaches and Dispute Resolution

All contracts over $150,000

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the the False Claims Act, 31 U.S.C. § 3729.

Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved.

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

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and 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 residing State.

Rights and Remedies - 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 recipient 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.

Transit Employee Protective Provisions

Contracts for transit operations except micro-purchases ($3,500 or less, except for construction contracts over $2,000)

Public Transportation Employee Protective Arrangements. The Recipient agrees that 49 U.S.C. § 5333(b) requires employee protective arrangements to be in place as a condition of award of FTA assistance made available or appropriated for FTA programs involving public transportation operations. U.S. DOL recognizes the following categories of arrangements:
(1) U.S. DOL Certification. When its Project involves public transportation operations and is financed with funding made available or appropriated for 49 U.S.C. §§ 5307, 5309, 5312, 5337, or 5339, as amended by Map-21, or former 49 U.S.C. §§ 5308, 5309, 5312, or other provisions of law as required by the Federal Government, U.S. DOL must provide a Certification of employee protective arrangements before FTA may provide financial assistance for the Project. Therefore, the Recipient understands and agrees, and assures that any Third Party Participant providing public transportation operations will agree, that: (a) It must carry out the Project as provided in its U.S. DOL Certification, which contains the terms and conditions that U.S. DOL has determined to be fair and equitable to protect the interests of any employees affected by the Project, (b) It must comply with 49 U.S.C. § 5333(b), and any future amendments thereto, (c)
It will follow the U.S. DOL guidelines, "Guidelines, Section 5333(b), Federal Transit Law," 29 C.F.R. part 215, except as U.S. DOL determines otherwise in writing, (d) It must comply with the terms and conditions of the U.S. DOL certification of public transportation employee protective arrangements for the Project, which certification is dated as identified on the Underlying Agreement, including: 1 Alternative comparable arrangements U.S. DOL has specified for the Project, 2 Any revisions U.S. DOL has specified for the Project, or 3 Both, and
(e) It must comply with the following documents and provisions incorporated by reference in and made part of the Underlying Agreement for the Project: 1 The U.S. DOL certification of public transportation employee protective arrangements for the Project, which certification is dated as identified on the Underlying Agreement, 2 The documents cited in that U.S. DOL certification for the Project, 3 Any alternative comparable arrangements that U.S. DOL has specified for the Project, and 4 Any revisions that U.S. DOL has specified for the Project, (2) Special Warranty. When its Project involves public transportation operations, and is financed with funding made available or appropriated for 49 U.S.C. § 5311, as amended by Map-21, for former 49 U.S.C. § 5311 in effect in FY 2012, or a previous fiscal year, or for section 3038 of TEA-21, as amended by section 3039 of SAFETEA-LU, U.S. DOL will provide a Special Warranty for those projects, including projects under the Tribal Transit Program. Therefore, the Recipient understands and agrees, and assures that any Third Party Participant providing public transportation operations will agree, that: (a) It must comply with Federal transit laws, specifically 49 U.S.C. § 5333(b).
(b) Follow the U.S. DOL guidelines, "Guidelines, Section 5333(b), Federal Transit Law," 29 C.F.R. part 215, except as U.S. DOL determines otherwise in writing, (c) It will comply with the U.S. DOL Special Warranty for its Project that is most current on the date when it executed the Underlying Agreement, and documents cited therein, including: 1 Any alternative comparable arrangements U.S. DOL has specified for the Project, 2 Any revisions U.S. DOL has specified for the Project, or 3 Both, and (d) It will comply with the following documents and provisions incorporated by reference in and made part of the Underlying Agreement: 1 The U.S. DOL Special

Warranty for its Project, 2 Documents cited in that Special Warranty, 3 Alternative comparable arrangements U.S. DOL specifies for the Project, and 4 Any revisions that U.S. DOL has specified for the Project, and (3) Special Arrangements for 49 U.S.C. § 5310 Projects. The Recipient understands and agrees, and assures that any Third Party Participant providing public transportation operations will agree, that although pursuant to 49 U.S.C. § 5310, and former 49 U.S.C. §§ 5310 or 5317, FTA has determined that it was not "necessary or appropriate" to apply the conditions of 49 U.S.C. § 5333(b) to Subrecipients participating in the program to provide public transportation for seniors (elderly individuals) and individuals with disabilities, FTA reserves the right to make the following exceptions: (a) FTA will make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and (b) FTA reserves the right to make other exceptions as it deems appropriate.

Disadvantaged Business Enterprise

Contracts over $3,500 awarded on the basis of a bid or proposal offering to use DBEs

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.

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

c. If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.

d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.

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

Prompt payment

Applicability – All contracts except micro-purchases ($3,500 or less, except for construction contracts over $2,000)

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

Incorporation of Federal Transit Administration (FTA) Terms

All contracts except micro-purchases ($3,500 or less, except for construction contracts over $2,000)

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

Drug and Alcohol Abuse and Testing

Operational service contracts except micro-purchases ($3,500 or less, except for construction contracts over $2,000)

The Contractor agrees to comply with the following Federal substance abuse regulations: a. Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 C.F.R. Part 32, that implements the Drug-Free Workplace Act of 1988 as amended, 41 U.S.C. §§ 8103 et seq., and 2 CFR part 182. b. Alcohol Misuse and Prohibited Drug Use. FTA Regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 USC 5331, as amended by Map-21, 49 CFR part 40, 49 USC chapter 53, 49 CFR Part 655, to the extent applicable.

Other Federal Requirements

The following requirements are not federal clauses.

Full and Open Competition

In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.

Prohibition Against Exclusionary or Discriminatory Specifications

Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

Conformance with ITS National Architecture

Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 and as amended by MAP-21 23 U.S.C. § 517(d), note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg.1455 etseq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

Access Requirements for Persons with Disabilities

Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall

also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

Notification of Federal Participation

To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of $500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

Interest of Members or Delegates to Congress

No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

Ineligible Contractors and Subcontractors

Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.

Other Contract Requirements

To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those provisions attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.

Compliance with Federal Regulations

Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as 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.

Real Property

Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by FAST Act, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Access to Services for Persons with Limited English Proficiency

To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

Environmental Justice

Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1)
Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance.

Environmental Protections

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

Geographic Information and Related Spatial Data

Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

Geographic Preference

All project activities must be advertised without geographic preference, (except in A/E under certain circumstances, preference for hiring veterans on transit construction projects and geographic-based hiring preferences as proposes to be amended in 2 CFR Part 1201).

Organizational Conflicts of Interest

The Recipient agrees that it will not enter into a procurement that involves a real or apparent organizational conflict of interest described as follows: (1) When It Occurs. An organizational conflict of interest occurs when the Project work, without appropriate restrictions on certain future activities, results in an unfair competitive advantage: (a) To that Third Party Participant or another Third Party Participant performing the Project work, and (b) That impairs that Third Party Participant's objectivity in performing the Project work, or (2) Other. An organizational conflict of interest may involve other situations resulting in fundamentally unfair competitive conditions, (3) Disclosure Requirements. Consistent with FTA policies, the Recipient must disclose to FTA, and each of its Subrecipients must disclose to the Recipient: (a) Any instances of organizational conflict of interest, or (b) Violations of federal criminal law, involving fraud, bribery, or gratuity violations potentially affecting the federal award, and (4) Failure to Disclose. Failure to make required disclosures can result in remedies for noncompliance, including debarment or suspension.

Federal Single Audit Requirements for State Administered Federally Aid Funded Projects Only

Non Federal entities that expend $750,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, "Audits of States, Local Governments, and Non Profit Organizations" (replaced with 2 CFR Part 200,"Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" effective December 26, 2014 as applicable). Non Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non Federal entities that expend less

than the amount above in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. 215 (a) of OMB Circular A-133 Subpart B--Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency the New York State Department of Transportation, the New York State Comptrollers Office and the U.S. Governmental Accountability Office (GAO). Non Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but no later than 9 months after the end of the entity's fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation's Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of Federal award payments.

Veterans Preference

Veterans Preference. As provided by 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:
(1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and
(2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

Safe Operation of Motor Vehicles

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

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

Catalog of Federal Domestic Assistance (CFDA) Identification Number

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.

CFDA number for the Federal Transportation Administration

Nonurbanized Area Formula (Section 5311) is 20.509. A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," (replaced with 2 CFR Part 200,"Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" effective December 26, 2014 as applicable) agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

Federal Certifications

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CERTIFICATION AND RESTRICTIONS ON LOBBYING

I, BENJAMIN W. BLUNT VICE PRESIDENT, hereby certify
(Name and title of official)

On behalf of BOSTON EXPRESS BUS, INC that:
(Name of Bidder/Company Name)

- 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 any agency, a Member of Congress, and 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.

- If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the 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.

- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients 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.

The undersigned certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801, et seq., are applicable thereto.

Name of Bidder/Company Name BOSTON EXPRESS BUS, INC

Type or print name BENJAMIN W. BLUNT

Signature of authorized representative _____ Date 11/6/18

Signature of notary and SEAL _____

Robert A. Fletcher Notary Public
My Commission Expires December 21, 2021

ROBERT A. FLETCHER
MY COMMISSION EXPIRES DEC. 21, 2021
NOTARY PUBLIC
NEW HAMPSHIRE

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

(1) It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180,

(2) To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:

a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:

(1) Debarred,
(2) Suspended,
(3) Proposed for debarment,
(4) Declared ineligible,
(5) Voluntarily excluded, or
(6) Disqualified,

b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:

(1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
(2) Violation of any Federal or State antitrust statute, or
(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,

c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,

d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,

e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a - 2.d above, it will promptly provide that information to FTA,

f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:

(1) Equals or exceeds $25,000,
(2) Is for audit services, or
(3) Requires the consent of a Federal official, and

g. It will require that each covered lower tier contractor and subcontractor:
(1) Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
(2) Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:

a. Debarred from participation in its federally funded Project,
b. Suspended from participation in its federally funded Project,
c. Proposed for debarment from participation in its federally funded Project,
d. Declared ineligible to participate in its federally funded Project,
e. Voluntarily excluded from participation in its federally funded Project, or
f. Disqualified from participation in its federally funded Project, and

3. It will provide a written explanation as indicated on a page attached in FTA's TrAMS platform or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third-Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

Certification

Contractor BOSTON EXPRESS BUS, INC

Signature of Authorized Official _____ Date 11/6/18

Name and Title of Contractor's Authorized Official BENJAMIN W. BLUNT
VICE PRESIDENT

State of New Hampshire
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that BOSTON EXPRESS BUS, INC. is a New Hampshire Profit Corporation registered to transact business in New Hampshire on October 10, 2006. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 565563
Certificate Number: 0004195775

IN TESTIMONY WHEREOF,
I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 10th day of October A.D. 2018.

William M. Gardner
Secretary of State

(/online/Home/) Back to Home (/online)

Business Information

Business Details

Business Name:	BOSTON EXPRESS BUS, INC.	Business ID:	565563
Business Type:	Domestic Profit Corporation	Business Status:	Good Standing
Business Creation Date:	10/10/2006	Name in State of Incorporation:	Not Available
Date of Formation in Jurisdiction:	10/10/2006		
Principal Office Address:	7 Langdon St, Concord, NH, 03301, USA	Mailing Address:	NONE
Citizenship / State of Incorporation:	Domestic/New Hampshire		
		Last Annual Report Year:	2018
		Next Report Year:	2019
Duration:	Perpetual		
Business Email:	accounting@concordcoachlines.com	Phone #:	603-228-3300
Notification Email:	NONE	Fiscal Year End Date:	NONE

Principal Purpose

S.No	NAICS Code	NAICS Subcode
1	OTHER / Transportation/livery	

Page 1 of 1, records 1 to 1 of 1

Principals Information

Name/Title	Business Address
Harry W Blunt / President	7 Langdon Street, Concord, NH, 03301, USA
Harry W Blunt / Director	7 Langdon Street, Concord, NH, 03301, USA
Benjamin Blunt / Vice President	7 Langdon St, Concord, NH, 03301, USA

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Registered Agent Information

Name: Blunt, Harry W

Registered Office Address: 7 Langdon St, Concord, NH, 03301, USA

Registered Mailing Address: 7 Langdon St, Concord, NH, 03301, USA

Trade Name Information

No Trade Name(s) associated to this business.

Trade Name Owned By

No Records to View.

Trademark Information

Trademark Number	Trademark Name	Business Address	Mailing Address
No records to view.			

Filing History Address History View All Other Addresses Name History Shares

Businesses Linked to Registered Agent Return to Search Back

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BOSTON EXPRESS BUS, INC.

CERTIFICATE OF VOTE

I, Harry W. Blunt, hereby certify that I am President of Boston Express Bus, Inc.

I hereby certify the following is a true copy of a vote taken at a special meeting of the Board of Directors of the corporation held on November 6, 2018 at an office of the corporation in Concord, New Hampshire, at which a quorum of the Board was present and voting.

VOTED: That Benjamin W. Blunt, as Vice President of said corporation, is hereby authorized and empowered to execute all documents between the State of New Hampshire, and its subdivisions, and Boston Express Bus, Inc. relating to the Contract Amendment with the State of New Hampshire, acting through its Department of Transportation, dated November 6, 2018, to add additional funds to the I-93 Manchester, NH to Boston, MA Contract Agreement, and further authorizing said officer to execute any documents which may in his judgment be desirable or necessary to effect the purpose of this vote.

I hereby certify that said vote has not been amended or repealed and remains in full force and effect as

Harry W. Blunt
President
Boston Express Bus, Inc.

Subscribed and sworn before me this 6th
day of November 2018.

Robert A. Fletcher Notary Public
My Commission Expires December 01, 2021

ROBERT A. FLETCHER
MY COMMISSION EXPIRES DEC 01 2021
NOTARY PUBLIC
NEW HAMPSHIRE

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 4/30/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Jennifer Letendre, CIC
THE ROWLEY AGENCY INC. 45 Constitution Ave P.O. Box 511 Concord NH 03302-0511	PHONE (A/C, No, Ext): (603)224-2562 FAX (A/C, No): (603)224-8012 E-MAIL ADDRESS: jletendre@rowleyagency.com
	INSURER(S) AFFORDING COVERAGE — NAIC #
	INSURER A: National Interstate Ins Co — 32620
	INSURER B: Acadia Insurance Company — 31325
	INSURER C:
	INSURER D:
	INSURER E:
	INSURER F:
INSURED Boston Express Bus, Inc 7 Langdon Street Concord NH 03301	

COVERAGES — CERTIFICATE NUMBER: 18/19 Bost Exp — REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR X Primary GL layer GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC OTHER:	X		YPP1107620-12	05/01/2018	05/01/2019	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 5,000,000 $ 50,000 $ 5,000 $ 5,000,000 $ 5,000,000 $ 5,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO X ALL OWNED AUTOS X HIRED AUTOS SCHEDULED AUTOS X NON-OWNED AUTOS	X		YPP1107620-12	05/01/2018	05/01/2019	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 100,000
A	UMBRELLA LIAB X OCCUR X EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 0			Excess of primary auto YEX1107620-11, 621-12 623-12, 623-12 and 626-12	05/01/2018	05/01/2019	EACH OCCURRENCE AGGREGATE	$ 24,900,000 $ 24,900,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		Sect 3A States: NH,MA,ME WCA5326280	12/31/2017	12/31/2018	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 500,000 $ 500,000 $ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The State of New Hampshire, Department of Transportation is additional insured w/ respecto to general & auto liabiliy when required by written contract.

CERTIFICATE HOLDER

State of New Hampshire
DOT
7 Hazen Dr.
Concord, NH 03301

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Robert Simpson/JLP

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THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

CHRISTOPHER D. CLEMENT, SR.
COMMISSIONER

JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, NH 03301

Bureau of Rail & Transit
May 27, 2014

Sole Source

REQUESTED ACTION

Authorize the Department of Transportation to enter into a **sole source** contract amendment with Boston Express Bus, Inc., (Vendor # 166250), Concord, NH, to increase the contract amount by $4,452,243 from $7,160,001 to $11,612,244, effective upon Governor and Council approval through December 31, 2018. This amendment only contains funding through the next fiscal biennium, or June 30, 2017. The original agreement was approved by Governor and Council on January 16, 2008 (Item 214) and amended June 8, 2011 (Item 174) and November 9, 2011 (Item 122). 100% Federal funds.

Funding for this amendment is available as follows for FY 2014 and FY 2015, and is contingent upon the availability and continued appropriation of funds in FY 2016 and 2017, with the authority to adjust encumbrances in each of the State Fiscal Years through the Budget Office if needed and justified.

		FY 2014	FY 2015	FY 2016	FY 2017
04-96-96-963515-3054					
Consolidated Federal Aid					
030-500320	Motor Vehicles (Replace)		$265,000	$565,000	$560,000
030-500331	Equipment – General (Replace)		$ 15,000	$ 15,000	$ 15,000
103-502664	Contracts for Operational Services	$100,000	$950,000	$1,000,000	$937,243
400-500869	Construction Buildings		$ 10,000	$ 10,000	$ 10,000

EXPLANATION

This item is contingent upon approval of a funding transfer at the June 9, 2014 Fiscal Committee meeting and also at the June 18, 2014 Governor and Council meeting to transfer appropriation into class 103 of accounting unit 3054. This **sole source** contract amendment is based on the need to maintain the current level of service without interruption while adequately addressing escalating operational and maintenance expenses.

Boston Express Bus, Inc. provides daily commuter bus service along the I-93 corridor between Manchester, North Londonderry (Exit 5), Londonderry (Exit 4), and Salem (Exit 2) to Boston, from morning peak through evening peak hours (5:00 AM southbound to 6:30 PM northbound). This contract amendment provides an additional $4,452,243 of Federal Highway Administration (FHWA) funds to assist with net operating expenses, marketing expenses, maintenance and terminal capital equipment, park and ride facility maintenance, and vehicle capital expenses through June 30, 2017. Federal funds will be matched with approved Toll Credits, effectively using 100% Federal funds. The use of Toll Credits for this project was approved by the Capital Budget Overview Committee on April 15, 2014 (approval letter attached).

The Department entered into a contract agreement with Boston Express Bus, Inc. in 2008 to initiate commuter bus service along the I-93 corridor to Boston, using State and FHWA funds to defray operating, preventative maintenance, capital procurement, and marketing expenses. Current operating and capital funds are projected to be expended by the end of State Fiscal Year 2014. The additional funding will provide net operating expenses (total operating expenses less revenues), marketing for the development and implementation of a marketing and customer service program, capital for transit facility repairs and improvements at the State-owned bus terminals at Exit 5, Exit 4, and Exit 2 of Interstate 93, and the bus maintenance facility and bus storage facility at Exit 5, and capital to make necessary repairs and overhauls to 12 commuter coaches and purchase of non-revenue replacement equipment in accordance with an NHDOT approved plan. The total revised contract amount, including previous amendments, is $11,612,244. The additional funding will allow Boston Express Bus to maintain existing service levels through June 30, 2017. The service continues to be successful, with ridership at approximately 30,500 per month or 366,000 total for year 2013. This commuter bus service is well utilized and is a tremendous asset to the State and greatly appreciated by commuters and travelers.

All other provisions of the agreement shall remain in effect.

The Amendment has been approved by the Attorney General as to form and execution and the Department will verify the necessary funds are available for FY 2016 and FY 2017 pending enactment of the Fiscal Year 2016 and 2017 budget. Copies of the fully executed agreement are on file at the Secretary of State's Office and the Department of Administrative Services' Office, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Your approval of this resolution is respectfully requested.

Sincerely,

for Christopher D. Clement, Sr.
Commissioner

Attachments

AMENDMENT TO AGREEMENT #3

BOSTON EXPRESS BUS, INC. (I-93)

WHEREAS, the Governor and Council approved an agreement between the New Hampshire Department of Transportation and Boston Express Bus, Inc. on January 16, 2008, Item 214, for daily commuter bus service from Manchester to Boston on I-93, and amended June 8, 2011, Item 174 and November 9, 2011, Item 122;

WHEREAS, the Department of Transportation has available Federal funds to continue support of operations, marketing, facility repair and improvements, and vehicle capital expenses for Boston Express Bus commuter service that runs along I-93 between Manchester-Londonderry-Salem-Boston;

WHEREAS, the Department of Transportation and Boston Express Bus Inc. have agreed to revise certain provisions in the contract agreement;

WHEREAS, Section 3, Contract Budget; Contract Price Limitation, 3.2, reads "The Contract Price Limitation represents the maximum to be paid by the State to the Contractor under this contract. Notwithstanding the budget in Exhibit B.1, payment for operating expenses shall not exceed the operating deficit (total costs less revenues). The Department will reimburse 100% of these expenses, using Federal funds and Turnpike Toll Credits.";

WHEREAS, Exhibit A, Scope of Services, contains items A.1 through A.5 only;

WHEREAS, Exhibit B, Budget, as amended, includes an additional $1,800,000 FHWA funds for operating expenses, with a new Contract Price of $7,160,001 as identified in Section B.3;

WHEREAS, Section B.3 of the Exhibit B, Budget as amended reads, "The Contractor may seek reimbursement for eligible expenses listed in the Project Budget and its approved detailed budget. Requests for reimbursement shall include a detailed statement of expenses utilizing the State's transit accounts, a statement of revenues, and a request for reimbursement for the net operating cost (expenses less revenues). Total reimbursements may not exceed the Contract Price of $7,160,001. The Contractor will operate commuter bus service under the terms of this agreement until the Completion Date, using the State-owned equipment.";

RESOLVED, that the agreement be amended to include new language for the following Sections and Exhibits:

Section 3. Contract Budget; Contract Price Limitation, 3.2 be amended to read "The Contract Price Limitation represents the maximum to be paid by the State to the Contractor under this amended contract. The Department will reimburse 100% of eligible expenditures using Federal funds for the net operating expenses (total operating expenses less revenues), marketing expenses, maintenance and terminal capital equipment, park and ride facility maintenance, and vehicle capital expenses. Notwithstanding the budget in Exhibit B.1, payment for operating expenses shall not exceed the operating deficit (total operating expenses less revenues)."

Exhibit A, Scope of Services, be amended to include:
A.6. The Contractor will make approved transit facility repairs and improvements at the State-owned bus terminals at Exit 5, Exit 4 and Exit 2 of Interstate 93, and the bus maintenance facility and the bus storage facility located at Exit 5.

A.7. The Contractor will procure non-revenue replacement equipment, upon approval of NHDOT, in compliance with FTA Circular 4220.1F or as amended.

A.8. The Contractor shall make necessary repairs and overhauls to 12 commuter coaches in accordance with an NHDOT-approved plan. The minimum useful life of each commuter coach that is repaired to the level that would be considered a bus rebuild by FTA standards will be increased by four (4) years from the current minimum useful life.

Exhibit B, Budget, Section B.1, be amended to include an additional $4,452,243 of Federal funding for the net operating expenses (total operating expenses less revenues), marketing expenses, maintenance and terminal capital equipment, park and ride facility maintenance, and vehicle capital expenses for a revised Contract Price of $11,612,244, as identified in Section B.3.

	Existing Contract	Proposed Amendment #3	Amended Contract
Net Operating Expenses (Total Operating Expenses – Revenues)	$5,999,797	$2,777,243	$8,777,040
Marketing Expenses	$600,000	$210,000	$810,000
Maintenance & Terminal Capital Equipment	$454,816	$75,000	$529,816
Park & Ride Facility Maintenance	$105,388		$105,388
Vehicle Capital Expenses		$1,390,000	$1,390,000
Contract Price	**$7,160,001**	**$4,452,243**	**$11,612,244**

Exhibit B, Budget, Section B.3, be amended to read, "The Contractor may seek reimbursement for eligible expenses listed in the Project Budget and its approved detailed budget. Requests for reimbursement shall include a detailed statement of expenses utilizing the State's transit accounts, a statement of revenues, and a request for reimbursement for the net operating expenses (total operating expenses less revenues), marketing expenses, maintenance and terminal capital equipment, park and ride facility maintenance, and vehicle capital expenses. The Contractor will invoice the State for reimbursement of eligible project expenses after the completion of approved work and items. Total reimbursements may not exceed the amended contract price of $11,612,244. The Contractor will continue to operate commuter bus service under the terms of the agreement until the Completion Date, using the State-owned equipment."

All other provisions of the agreement shall remain in effect.

All amended Sections and Exhibits appear below.

AMENDED SECTIONS AND EXHIBITS

3. CONTRACT BUDGET; CONTRACT PRICE LIMITATION

3.2 The Contract Price Limitation represents the maximum to be paid by the State to the Contractor under this amended contract. The Department will reimburse 100% of eligible expenditures using Federal funds for the net operating expenses (total operating expenses less revenues), marketing expenses, maintenance and terminal capital equipment, park and ride facility maintenance, and vehicle capital expenses. Notwithstanding the budget in Exhibit B.1, payment for operating expenses shall not exceed the operating deficit (total operating expenses less revenues).

EXHIBIT A
SCOPE OF SERVICES
Revised

The Contractor shall provide the following services:

A.1. Daily intercity commuter bus service between Manchester, North Londonderry (Exit 5), Londonderry (Exit 4), and Salem (Exit 2) and other stops approved by the State and Boston, Massachusetts, with minimum service hours extending from morning peak through evening peak hour, or 5:00 am southbound to 6:30 pm northbound departures, on weekdays. The Contractor and the State will negotiate terms and a budget for service to Windham (Exit 3) upon construction of a park and ride facility there, should the State determine that a need exists for bus service at that location. The contract period is 10 years and the project provides funding for the operation and marketing associated with the service.

A.2. The Contractor submit a schedule prior to the Commencement Date for the approval of the State, and shall not change, add, or delete any route or make any fare, service or operating schedule adjustments without the prior written approval of the State, except in an emergency situation. In such an emergency, the Contractor shall notify the State no later than the next working day following the day of such changes. Such change shall be valid for five days; thereafter, the written approval of the State shall be required.

A.3. The Contractor shall manage and operate bus terminals at Exit 5, Exit 4 and Exit 2 of Interstate 93 and a bus maintenance facility and bus storage facility located at Exit 5.

A.4. The Contractor shall utilize fifteen (15) ADA-compliant MCI commuter coaches to be purchased by the State and identified by Vehicle Identification Numbers to be appended to this agreement. In the event one or more coaches become unavailable due to accident or other loss, the State and Contractor agree to use available funding to provide replacement equipment.

A.5. The Contractor shall develop and implement with the State's approval a marketing and customer service program to inform commuters and the general public about the service and to provide an opportunity for customer comment and suggestions for service improvements.

A.6. The Contractor will make approved transit facility repairs and improvements at the State-owned bus terminals at Exit 5, Exit 4 and Exit 2 of Interstate 93, and the bus maintenance facility and the bus storage facility located at Exit 5.

A.7. The Contractor will procure non-revenue replacement equipment, upon approval of NHDOT, in compliance with FTA Circular 4220.1F or as amended.

A.8. The Contractor shall make necessary repairs and overhauls to 12 commuter coaches in accordance with an NHDOT-approved plan. The minimum useful life of each commuter coach that is repaired to the level that would be considered a bus rebuild by FTA standards will be increased by four (4) years from the current minimum useful life.

EXHIBIT B: BUDGET
Revised

B.1. The Contract Price is the reimbursable portion of the eligible project costs. The Project and Contract Price are:

	Existing Contract	Proposed Amendment #3	Amended Contract
Net Operating Expenses (Total Operating Expenses – Revenues)	$5,999,797	$2,777,243	$8,777,040
Marketing Expenses	$600,000	$210,000	$810,000
Maintenance & Terminal Capital Equipment	$454,816	$75,000	$529,816
Park & Ride Facility Maintenance	$105,388		$105,388
Vehicle Capital Expenses		$1,390,000	$1,390,000
Contract Price	**$7,160,001**	**$4,452,243**	**$11,612,244**

B.2 At least fourteen days prior to the submission of the Contractor's first request for reimbursement, the Contractor shall submit to the State a detailed budget including any revisions to its budget, incorporating all funds to be expended in the provision of services pursuant to this contract. Budget revisions may be made with written approval of the State, and are limited to the six-month interval and year-end of the contract.

B.3. The Contractor may seek reimbursement for eligible expenses listed in the Project Budget and its approved detailed budget. Requests for reimbursement shall include a detailed statement of expenses utilizing the State's transit accounts, a statement of revenues, and a request for reimbursement for the net operating expenses (total operating expenses less revenues), marketing expenses, maintenance and terminal capital equipment, park and ride facility maintenance, and vehicle capital expenses. The Contractor will invoice the State for reimbursement of eligible project expenses after the completion of approved work and items. Total reimbursements may not exceed the amended contract price of $11,612,244. The Contractor will continue to operate commuter bus service under the terms of the agreement until the Completion Date, using the State-owned equipment.

Boston Express Bus, Inc.

HARRY W. BLUNT Date: 4-18-14

Name

PRESIDENT

Title

Signature

NH Department of Transportation

Date: 4-28-14

Name

Director

Title

Signature

Approved by Attorney General

Brian W. Buonaiuto Date: 5/19/14

Name

AAG

Title

Signature

Approved by Governor and Council

Date:

State of New Hampshire
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that Boston Express Bus, Inc. is a New Hampshire corporation duly incorporated under the laws of the State of New Hampshire on October 10, 2006. I further certify that all fees and annual reports required by the Secretary of State's office have been received and that articles of dissolution have not been filed.

In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 17th day of April, A.D. 2014

William M. Gardner
Secretary of State

Corporation Division

Search
By Business Name
By Business ID
By Registered Agent
Annual Report
File Online
Guidelines
Name Availability
Name Appeal Process

Date: 4/16/2014

Filed Documents
(Annual Report History, View Images, etc.)

Business Name History

Name	Name Type
Boston Express Bus, Inc.	Legal

Corporation - Domestic - Information

Business ID:	565563
Status:	Good Standing
Entity Creation Date:	10/10/2006
Principal Office Address:	7 Langdon St Concord NH 03301
Principal Mailing Address:	No Address
Last Annual Report Filed Date:	3/24/2014
Last Annual Report Filed:	2014

Registered Agent

Agent Name:	Blunt, Harry W.
Office Address:	7 Langdon St Concord NH 03301
Mailing Address:	

Important Note: The status reflected for each entity on this website only refers to the status of the entity's filing requirements with this office. It does not necessarily reflect the disciplinary status of the entity with any state agency. Requests for disciplinary information should be directed to agencies with licensing or other regulatory authority over the entity.

CERTIFICATE OF AUTHORITY/VOTE

I, Michael D. Ruedig, do hereby certify that:

1. I am the duly elected Assistant Secretary of Boston Express Bus, Inc. (the "Corporation").

2. The following are true copies of two resolutions duly adopted by consent of the Sole Shareholder of the Corporation as of April 18, 2014.

RESOLVED: That this Corporation enter into a Contract Amendment with the State of New Hampshire, acting through its Department of Transportation, dated April 18, 2014, to add additional funds to the I-93 Manchester to Boston Contract Agreement.

RESOLVED: That the President, Harry W. Blunt, is authorized on behalf of this Corporation to enter into the said contract with the State and to execute any and all documents, agreements and other instruments, and any amendments, revisions, or modifications thereto, as he may deem necessary, desirable or appropriate.

3. The foregoing resolutions have not been amended or revoked, and remain in full force and effect as of April 18, 2014.

4. Harry W. Blunt is the duly elected President of the Corporation.

Michael D. Ruedig
Assistant Secretary

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

The foregoing instrument was acknowledged before me this 18th day of April, 2014, by Michael D. Ruedig.

Rhonda E. Davignon
Notary Public/Justice of the Peace

Commission Expires:

Rhonda E. Davignon
Notary Public, State of New Hampshire
My Commission Expires Feb 2, 2016

Boston Express Bus, Inc.

Consent of Sole Shareholder

I, Harry Blunt, hereby certify that I am the Sole Shareholder and President of Boston Express Bus, Inc. I hereby consent to the adoption of the following resolutions effective April 18, 2014:

RESOLVED: That this Corporation enter into a Contract Amendment with the State of New Hampshire, acting through its Department of Transportation, dated April 18, 2014, to add additional funds to the I-93 Manchester to Boston Contract Agreement.

RESOLVED: That the President, Harry W. Blunt, is authorized on behalf of this Corporation to enter into the said contract with the State and to execute any and all documents, agreements and other instruments, and any amendments, revisions, or modifications thereto, as he may deem necessary, desirable or appropriate.

I hereby certify and acknowledge that the State of New Hampshire Department of Transportation will rely on these resolutions as evidence that I have full authority to bind Boston Express Bus, Inc. for that certain Contract Amendment with the State of New Hampshire Department of Transportation, dated April 18, 2014, to add additional funds to the I-93 Manchester to Boston Contract Agreement.

Harry W. Blunt
Sole Shareholder and President

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

The foregoing instrument was acknowledged before me this 18th day of April, 2014, by Harry W. Blunt.

Notary Public/Justice of the Peace

Commission Expires:

Rhonda E. Davignon
Notary Public, State of New Hampshire
My Commission Expires Feb 2, 2018

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 4/24/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER THE ROWLEY AGENCY INC. 139 Loudon Road P.O. Box 511 Concord NH 03302-0511	CONTACT NAME: Jennifer Porter PHONE (A/C, No, Ext): (603)226-2562 FAX (A/C, No): (603)224-8012 E-MAIL ADDRESS: jporter@rowleyagency.com
	INSURER(S) AFFORDING COVERAGE — NAIC #
	INSURER A: National Interstate Ins. Co.
INSURED Boston Express Bus, Inc. 7 Langdon Street Concord NH 03301	INSURER B: Liberty Mutual Insurance Co. 0010 INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES CERTIFICATE NUMBER: 14/15 BB CERT REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR X Primary GL Layer GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC			YPP1107620-08	05/01/2014	05/01/2015	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 5,000,000 $ 50,000 $ 5,000 $ 5,000,000 $ 5,000,000 $ 5,000,000
A	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS X Primary Auto Layer			YPP1107620-08	05/01/2014	05/01/2015	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 100,000
A	UMBRELLA LIAB OCCUR X EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 0			Excess of Primary Auto YEX1107620-08	05/01/2014	05/01/2015	EACH OCCURRENCE AGGREGATE	$ 4,900,000 $ 4,900,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [N] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		WC2-X11-260171-013 3A States: NH, MA, ME	12/31/2013	12/31/2014	X WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 500,000 $ 500,000 $ 500,000
A	Excess Auto and Excess GL			YEX10007621-08 YEX10007622-08	05/01/2014 05/01/2014	05/01/2015 05/01/2015		5,000,000 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

The State of New Hampshire, Department of Transportation is additional insured w/ respects to general & auto liability when required by written contract. Plus Excess Auto/GL policy #YEX1107623-07 & #YEX1107624-07: $5,000,000 each. Total Liability limits are $25,000,000.

CERTIFICATE HOLDER

State of New Hampshire
DOT
7 Hazen Dr.
Concord, NH 03301

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Robert Simpson/JLP

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Approved 1.19.11
Item #122
Amended #2

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

CHRISTOPHER D. CLEMENT, SR.
COMMISSIONER

JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER

His Excellency, Governor John H. Lynch
and the Honorable Council
State House
Concord, NH 03301

Bureau of Rail & Transit
October 10, 2011

REQUESTED ACTION

Authorize the Department of Transportation to enter into a contract amendment (Contract # 400125) with Boston Express Bus, Inc. (Vendor #166250), Concord, NH, for bus service on I-93 between Manchester and Boston, MA by increasing the contract amount by $1,800,000 from $5,360,001 to $7,160,001, effective upon Governor and Council approval through December 31, 2018. The original agreement was approved by Governor and Council on January 16, 2008 (Item # 214) and amended June 8, 2011 (Item #174). 100% Federal Highway Administration funds.

Funding is available as follows:

	FY 2012
04-96-96-963515-3054	
Consolidated Federal	
400-500870 Highway Contract Payments	$1,800,000

EXPLANATION

The Department entered into a contract with Boston Express Bus, Inc. in 2008 to initiate commuter bus service from North Londonderry (Exit 5), Londonderry (Exit 4), and Salem (Exit 2) to Boston, using State and Federal Transit Administration (FTA) Congestion Mitigation & Air Quality (CMAQ) funds to defray operating and marketing expenses and make capital improvements. The service has been successful, with 330,000 passengers carried in 2010 and ridership up more than 13 percent in 2011. Although the bus service now covers more than 90 percent of its operating cost from revenues, it still requires a subsidy to offer the extensive schedule and frequency needed to serve the commuter market. The Federal Highway Administration has agreed to allow the use of Federal-aid funding to support the operation during construction of improvements to I-93. This contract amendment provides an additional $1,800,000 Federal Highway Administration funds to assist with the operating expenses. Transportation Development Credits (Turnpike Toll Credits) will be used to provide the 20% matching share, effectively using 100% Federal Highway Administration funds. The amendment also revises the "termination for convenience" provision in the agreement, extending the allowable period from 30 to 90 days; changes the bus service destination from "South Station-Boston" to "Boston" (allowing other stops in Boston); removes the three-year limit on financial support for the service; and revises the Facility Rules and Regulations to clarify the operator's responsibility for managing the park and ride lot.

In the event that Federal funds become unavailable, general funds will not be requested to support this program.

The Agreement has been approved by the Attorney General as to form and execution, and the Department has verified that the necessary funds are available. Copies of the fully executed agreement are on file at the Secretary of State's Office and the Department of Administrative Services' Office, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Your approval of this resolution is respectfully requested.

Sincerely,

Christopher D. Clement, Sr.
Commissioner

Amendment #1
6/8/11
Item 174

New Hampshire DOT
Department of Transportation

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

GEORGE N. CAMPBELL, JR.
COMMISSIONER

JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER

His Excellency, Governor John H. Lynch
and the Honorable Council
State House
Concord, NH 03301

Bureau of Rail & Transit
May 9, 2011

REQUESTED ACTION

Authorize the Department of Transportation to enter into a contract amendment (Contract # 400125) with Boston Express Bus, Inc. (Vendor #166250), Concord, NH, for bus service on I-93 between Manchester and Boston, MA by increasing the contract amount by $465,388 from $4,894,613 to $5,360,001, effective upon Governor and Council approval through December 31, 2018. The original agreement was approved by Governor and Council on January 16, 2008 (Item # 214). 100% Federal funds.

Funding is available as follows:	FY 2011
04-96-96-963515-3054	
Consolidated Federal Aid	
400-500870 Highway Contract Payments	$465,388

EXPLANATION

The Department entered into a contract with Boston Express Bus, Inc. in 2008 to initiate commuter bus service from North Londonderry (Exit 5), Londonderry (Exit 4), and Salem (Exit 2) to Boston, using State and Federal Transit Administration (FTA) Congestion Mitigation & Air Quality (CMAQ) funds to defray operating and marketing expenses and make capital improvements. This service has been very successful, with ridership averaging approximately 28,000 per month on 26 daily round trips. Although ridership has grown significantly, the service requires additional operating subsidy due to higher costs for extending service to downtown Manchester, increasing fuel costs and other expenses. This contract amendment provides an additional $360,000 to assist with the operating expenses. An additional $105,388 will be used to make repairs and improvements to the State-owned park and ride facilities. State Highway funds will be used to provide the 20% highway funds matching share for capital expenses. However, Transportation Development Credits (Turnpike Toll Credits) will be used to provide the 20% matching share, effectively using 100% federal funds. The amendment also clarifies the contractor's responsibility to maintain and provide insurance for the park and ride facilities.

In the event that Federal funds become unavailable, additional general funds will not be requested to support this program.

JOHN O. MORTON BUILDING • 7 HAZEN DRIVE • P.O. BOX 483 • CONCORD, NEW HAMPSHIRE 03302-0483
TELEPHONE: 603-271-3734 • FAX: 603-271-3914 • TDD: RELAY NH 1-800-735-2964 • INTERNET: WWW.NHDOT.COM

The Agreement has been approved by the Attorney General as to form and execution, and the Department has verified that the necessary funds are available. Copies of the fully executed agreement are on file at the Secretary of State's Office and the Department of Administrative Services' Office, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Your approval of this resolution is respectfully requested.

Sincerely,

George N. Campbell, Jr.
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

CHARLES P. O'LEARY, JR.
COMMISSIONER

JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER

Bureau of Rail & Transit
November 30, 2007

His Excellency, John H. Lynch, Governor
and the Honorable Council
State House
Concord, NH 03301

original contract
Item # 214
1/16/08

REQUESTED ACTION

Authorize the Department of Transportation to enter into an operating agreement with Boston Express Bus, Inc. (VC # 131270), Concord, NH, for an amount not to exceed $4,894,613, to provide intercity bus service between Manchester, Londonderry, Salem and Boston-South Station and to manage and operate bus terminals and associated facilities at Exits 5, 4, and 2 of Interstate 93, effective from the date of Governor and Council approval through December 31, 2018, with the option to renew for an additional five-year period subject to Governor and Council approval. 80% Federal funds, 20% Highway funds.

Funding is available in the following account:

Consolidated Federal Aid	
015-096-3054-090-0226	$4,894,613

EXPLANATION

The Department of Transportation submitted a successful proposal for Congestion Mitigation & Air Quality (CMAQ) funds in 2002 to expand intercity bus service on I-93 between Manchester and Boston. Using CMAQ funds, the State will provide funding to Boston Express Bus, Inc. to operate daily commuter bus service between Manchester and Boston with stops including North Londonderry (Exit 5), Londonderry (Exit 4), and Salem (Exit 2).

This project will also provide funding for marketing of the new service, purchase of maintenance and terminal capital equipment, and operation of bus terminals at Exit 5, Exit 4 and Exit 2 of I-93 and a bus maintenance facility and bus storage facility located at Exit 5.

The Department issued a Request for Proposals in June 2007 for this project, and Boston Express Bus, Inc. submitted the only proposal received in response to the request.

AGREEMENT

THE STATE OF NEW HAMPSHIRE AND BOSTON EXPRESS BUS, INC., A NEW HAMPSHIRE CORPORATION, DO HEREBY MUTUALLY AGREE AS FOLLOWS:

This Agreement is entered into by the State of New Hampshire, acting through its Bureau of Rail & Transit, Department of Transportation (hereinafter "State"), and Boston Express Bus, Inc., a New Hampshire Corporation (hereinafter "Contractor"), 7 Langdon St., Concord, NH 03301.

1. EMPLOYMENT OF THE CONTRACTOR: SERVICES TO BE PERFORMED

The State engages the Contractor to perform, and the Contractor shall perform that work identified and more particularly described in the scope of services attached hereto as Exhibit A (the said scope of services being hereinafter collectively referred to as the "Services"). Services may be changed by the Contractor only with the prior written agreement of the State.

2. DEFINITIONS

Effective Date: This Agreement, and all obligations of the parties hereunder, shall become effective upon approval of the Governor and Executive Council.

Commencement Date: Commencement of the Services shall begin upon issuance of a Notice to Proceed by the State and, except as otherwise specifically provided for herein, all services, including all reports required by this Agreement, shall be completed in their entirety prior to the Completion Date.

Completion Date: Completion date of the contract shall be ten (10) years after the Commencement Date. Vehicles used for the Services may be used beyond the Completion Date as provided in Section 6 b. The Contractor may request an additional five-year agreement under the same or revised terms, to be submitted to the Governor and Executive Council for approval. Upon the Completion Date, the Contractor shall return all project equipment to the State and vacate any State-owned property utilized for the services.

Contracting Officer: The Assistant Commissioner of the Department of Transportation.

Premises: The State-owned park and ride lots, bus terminals, and bus maintenance and storage facilities near I-93 at North Londonderry Exit 5, Londonderry Exit 4, and Salem Exit 2 as shown in Exhibit C.

3. CONTRACT BUDGET; CONTRACT PRICE LIMITATION

3.1 The Contract Budget is set forth in Exhibit B to this Agreement, which is herein incorporated by reference.

3.2 The Contract Price Limitation represents the maximum to be paid by the State to the Contractor under this contract for a period of three years beginning on the Commencement Date. Notwithstanding the budget in Exhibit B.1, payment for operating expenses shall not exceed the operating deficit (total costs less fare revenues). Federal funds will cover 80% and the State shall be responsible for paying the balance of operating deficit.

4. ACCOUNTING, BOOKKEEPING, AND REPORTING REQUIREMENTS

4.1 Contractor and/or subcontractors shall establish and maintain accounting and bookkeeping documents as required by the State. The Contractor shall maintain payroll information, time sheets, accounts payable and receivable documents to support requests for reimbursement and make them available upon request by the State.

4.2 Maintenance of Records. The contractor shall keep and maintain the records, documents, and accounts described herein between the Effective Date and the Completion Date and for a period of three years after the Completion Date or the date of resolution of all matters relating to this Agreement, whichever is later.

CAP 14-018

JEFFREY A. PATTISON
Legislative Budget Assistant
(603) 271-3161

MICHAEL W. KANE, MPA
Deputy Legislative Budget Assistant
(603) 271-3

State of New Hampshire
OFFICE OF LEGISLATIVE BUDGET ASSISTANT
State House, Room 102
Concord, New Hampshire 03301

RICHARD J. MAHONEY, CPA
Director, Audit Division
(603) 271-2785

RECEIVED
COMMISSIONERS OFFICE
APR 18 2014

April 16, 2014

THE STATE OF NEW HAMPSHIRE
DEPT. OF TRANSPORTATION

Christopher D. Clement, Sr., Commissioner
Department of Transportation
John O. Morton Building
7 Hazen Drive
Concord, New Hampshire 03302-0483

Dear Commissioner Clement,

The Capital Budget Overview Committee, pursuant to the provisions of RSA 228:12-a, on April 15, 2014, approved the request of the Department of Transportation, Bureau of Rail and Transit, to use up to $1,337,751 of Turnpike Toll Credit, based on total amended project costs not to exceed $5,364,848 in Federal funds to meet funding match requirements for Boston Express Bus service to support commuter bus service along the FE Everett Turnpike and I-93 corridors between Manchester and Boston through June 30, 2017, subject to the conditions as specified in the request dated March 31, 2014.

Sincerely,

Jeffry A. Pattison
Legislative Budget Assistant

JAP/pe
Attachment

Cc: Patrick McKenna, Deputy Commissioner
Patrick Herlihy, Director of Aeronautics, Rail and Transit

CAP 14-018

New Hampshire DOT
Department of Transportation

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

CHRISTOPHER D. CLEMENT, SR.
COMMISSIONER

JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER

March 31, 2014
Bureau of Rail & Transit

The Honorable David Campbell, Chairman
Capital Budget Overview Committee
State House
Concord, NH 03301

Re: Request for Approval of the Department of Transportation, Toll Credit Match
Boston Express FEE Turnpike and I-93 Operating, Capital, and Marketing

Dear Chairman Campbell and Honorable Members of the Committee:

Requested Action

Pursuant to the provisions RSA Chapter 228:12-a, Use of Toll Credits, the New Hampshire Department of Transportation (NHDOT) requests the Capital Budget Overview Committee approve the Department's use of Toll Credits to meet funding match requirements for Boston Express Bus service. The Department will seek an increase in funding through contract amendments to support commuter bus service along the FE Everett Turnpike and I-93 corridors between Manchester and Boston through June 30, 2017. The total amended project costs shall not exceed $5,364,848 in Federal funds and the usage of up to $1,337,751 in Toll Credit match is requested.

Explanation

This project will provide funds for the continued operation of daily commuter bus service for the general public between Manchester-Nashua-Tyngsborough-Boston along the FE Everett Turnpike and between Manchester-Londonderry-Salem-Boston along the I-93 corridor. Boston Express Bus operates this service under contract to the State and requested funds will be used to support costs including operations, vehicle maintenance, facility maintenance, and marketing. The Department will utilize I-93 project funds and Federal Transit Administration (FTA) Section 5307 Urbanized Area funds to support these activities and the commuter bus service through June 30, 2017.

The Department entered into a contract with Boston Express Bus, Inc. in 2007 to initiate commuter bus service along the FE Everett Turnpike from Nashua to Boston, using State and Federal Transit Administration (FTA) funds to defray operating and marketing expenses. The Department also entered into a contract with Boston Express Bus, Inc. in 2008 to initiate commuter bus service along the I-93 corridor from Manchester, Londonderry, and Salem to Boston, using State and FTA CMAQ funds to defray operating and marketing expenses and make capital improvements. Both services have been very successful, with ridership and revenues growing each year. However, additional subsidy is needed to

maintain the aging facilities and equipment and to operate a robust commuter bus service. The Department will pursue a contract amendment for the FE Everett Turnpike service to increase the contract amount by $912,605 Federal, requiring a $447,302 toll credit match and a separate contract amendment for the I-93 service to increase the contract amount by $4,452,243 Federal, requiring a $890,449 toll credit match.

Your approval of this resolution is respectfully requested.

Sincerely,

Christopher D. Clement, Sr.
Commissioner

Boston Express Ridership & Revenue Summary – 2013

RIDERSHIP

I-93 Passenger Data

	Exit 2	Exit 4	Exit 5	Manchester	Logan*	TOTAL*
2013	110,823	75,285	160,542	19,433	43,638	366,083
2012	99,574	77,811	157,928	21,391	41,612	356,704
+/-	11.3%	-3.2%	1.7%	-9.2%	4.9%	2.6%

FEE (Nashua) Passenger Data

	Exit 8	Exit 35	Manchester	Logan*	TOTAL*
2013	116,839	53,747	22,399	33,178	192,985
2012	121,125	45,872	23,136	31,192	190,133
+/-	-3.5%	17.2%	-3.2%	6.4%	1.5%

*Logan numbers are not included in the Total sums as they are already accounted for in totals by location

Combined Ridership Data

	All Terms
2013	559,068
2012	546,837
+/-	2.2%

REVENUES

		Revenues	Farebox Recovery
I-93	2012	$ 3,421,206	83.4%
	2013	$ 3,515,993	84.0%

		Revenues	Farebox Recovery
FEE (Nashua)	2012	$ 2,064,544	102.8%
	2013	$ 2,079,464	95.2%

		Revenues	Farebox Recovery
BX Combined	2012	$ 5,485,750	89.8%
	2013	$ 5,595,457	87.9%