



**Central Florida Regional Transportation Authority  
d.b.a.**



455 North Garland Avenue  
Orlando, FL 32801

**INVITATION FOR BID (IFB) COVER PAGE**

**1. SOLICITATION NAME: REMANUFACTURED CUMMINS ENGINES FOR TRANSIT FLEET**

**2. SOLICITATION NO: 18-B14**

**3. ISSUE DATE: May 17, 2018**

**4. FOR INFORMATION CONTACT:**

**NAME:** Varun Desai, Sr. Purchasing Agent

**PHONE:** 407-254-6045

**E-MAIL:** [vdesai@golynx.com](mailto:vdesai@golynx.com)

**FAX:** N/A

**5. BRIEF DESCRIPTION:**

Remanufactured Cummins Engines For Transit Fleet

**6. PRE-BID CONFERENCE DATE AND TIME:** N/A

**7. PRE-BID LOCATION:** LYNX CENTRAL STATION (LCS), 455 NORTH GARLAND AVENUE, 2<sup>ND</sup> FLOOR, ORLANDO, FL 32801  
**Parking Change:** [Parking is now available at the Orange County Courthouse Garage at 425 North Orange Avenue.](#)  
[Please be sure to bring your parking ticket to the lobby of the LYNX LCS Building for validation.](#)

**8. DEADLINE FOR SUBMISSION OF QUESTIONS/CLARIFICATIONS:** [May 31, 2018 2:00 p.m.](#)

**9. SUBMIT BID TO THE FOLLOWING ADDRESS:**

Central Florida Regional Transportation Authority (LYNX)  
[Attn: Varun Desai, Senior Purchasing Agent](#)  
455 North Garland Avenue, Orlando, FL 32801

**10. BID SUBMISSION DUE DATE AND TIME:**

**June 18, 2018 2:00 P.M. EST**

**11. SUBMIT WITH BID RESPONSE:** One (1) Original Bid Response, **four (4) Copies, and One (1) Electronic Original on a USB Flash Drive.**

**12. BID RESPONSES WILL NOT BE PUBLICLY OPENED.**

**13. BIDDER OFFER PERIOD:** Offers shall be firm for a period of one hundred twenty (120) calendar days from the date specified in Block 10 above or as amended.

**14.** If this Bid is accepted within the period specified in Block 10, above, the Bidder agrees to fully provide the goods and/or services covered by this solicitation at the prices and timelines specified in the solicitation.

**15.** The following below Exhibits, when indicated with an Rn are included in this solicitation and must be completed and returned with your Bid. Exhibits, when indicated with an X, are included in this solicitation and do not have to be returned.

<b>X</b>	EXHIBIT A – Solicitation Instructions & Conditions	<b>X</b>	EXHIBIT B – Scope of Work	<b>X</b>	EXHIBIT C – Terms and Conditions
<b>X</b>	EXHIBIT D – LYNX General Provisions	<b>R</b>	EXHIBIT E – Bidder’s Offer & Guarantees	<b>R</b>	EXHIBIT F – Certification Regarding Debarment
<b>R</b>	EXHIBIT G – Certification Regarding Lobbying	<b>N/A</b>	EXHIBIT H – Buy America	<b>N/A</b>	EXHIBIT I – Disadvantaged Business Enterprise
<b>X</b>	EXHIBIT J – Contract	<b>R</b>	EXHIBIT K – Bid Form	<b>R</b>	EXHIBIT L - References
<b>R</b>	EXHIBIT M – Non-Collusion	<b>X</b>	EXHIBIT N – No Bid	<b>R</b>	EXHIBIT O – E-Verify

**16. DBE:** There is no DBE (Disadvantaged Business Enterprise) goal established for this procurement.

**EXHIBIT A**  
**SOLICITATION INSTRUCTIONS and CONDITIONS**

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**1. Background**

The Central Florida Regional Transportation Authority (“LYNX” or the “Authority”) is an agency of the State of Florida, created by the Florida Legislature to own, operate, maintain, and manage a public transportation system in the areas of Orange, Osceola, and Seminole Counties. The Authority’s enabling legislation (Florida Statutes Section 343.64) has the express intention “that the Authority be authorized to plan, develop, own, purchase, lease, or otherwise acquire, demolish, relocate, equip, repair, maintain, operate, and manage a regional public transportation system and public transportation facilities; to establish and determine such policies as may be necessary for the best interest of the operation and promotion of a public transportation system; and to adopt such rules as may be necessary to govern the operation of a public transportation system and public transportation facilities.” In 1993, the Authority began doing business as “LYNX”.

LYNX serves an area of approximately 2,500 square miles with a resident population of 2.1 million people. Bus service operates from 4:15 a.m. to 3:05 a.m. and provides more than 85,500 rides each weekday. During fiscal year 2016, LYNX reached a new ridership record of 27.4 million passenger trips. LYNX currently maintains nearly 4,500 bus stops. LYNX provides an array of transportation services in the form of fixed route bus services, door-to-door Paratransit services, carpool/vanpool services, school pool matching services, and community shuttle service to special events.

A five (5) member Board of Directors governs LYNX, which Board consists of representatives from Orange, Osceola, and Seminole Counties, the City of Orlando, and the Florida Department of Transportation.

**2. Knowledge of Conditions**

Any person (“Bidder”) submitting a Bid (“Bid”) in response to this Invitation For Bid (“IFB”) shall examine the Scope of Work carefully and be informed thoroughly regarding any and all conditions and requirements that may in any manner affect the work to be performed under the contract to be awarded under this IFB (the “Contract”). No allowances shall be made because of lack of knowledge of any specifications, conditions, or requirements of this IFB.

**3. Omission**

Notwithstanding the provision of drawings, technical specifications, or other data by LYNX, Bidders shall have the responsibility of supplying all details required to make an accurate offer of services even though such details may not be specifically mentioned in the scope of work or elsewhere in this IFB.

**4. Legal Representation**

Akerman Senterfitt (“Akerman”) is legal counsel to LYNX in connection with this IFB and the Contract to be entered into hereunder. In the event that Akerman has provided legal services to a Bidder submitting a Bid, a conflict of interest may be created. By submitting a Bid, each Bidder agrees to waive all conflicts created by the prior representation and consents to Akerman’s continued representation of LYNX in connection with this solicitation and the Contract to be entered into hereunder.

**5. Communications to LYNX – Cone of Silence**

All questions pertaining to this IFB, or any matters relating thereto the Scope of Work, or any questions pertaining to the IFB or Bid documents, shall be in writing and shall be sent only to the Procurement Representative identified in **Block 3** of the IFB Cover Page. Communications sent to any other person at LYNX or at any other address may, in LYNX's sole discretion, be deemed to be "non-responsive" and LYNX in its discretion may elect to disregard any such questions. LYNX shall not respond to oral inquiries, and oral statements of any nature by LYNX or any of its representatives may not be relied upon for any purpose whatsoever.

**6. Pre-Bid Meeting**

Please see **Block 5** of the IFB Cover Page for whether a Pre-Bid Meeting (at which questions may be directed to and answered by LYNX personnel) shall be held in connection with this IFB and, if so, the date and time of such meeting.

A Pre-Bid Meeting, if held pursuant to this IFB, shall be on the second floor of the LYNX Central Station, located at 455 North Garland Avenue, Orlando, Florida 32801 (intersection of Amelia Street and North Garland). Parking is available at the Orange County Clerk of Courts Parking Garage, at 425 North Orange Avenue, Orlando, FL 32801. Please be sure to bring your parking ticket to the lobby of the LYNX Central Station (455 North Garland Avenue), to get it validated. If a Pre-Bid Meeting is held, attendance is not mandatory in order to submit a Bid; however, it is recommended. Thus, statements made by LYNX at the Pre-Bid Meeting may not be relied upon in any way by any person and may not be the basis of any protest. Bidders are cautioned to independently verify any matters stated at the Pre-Bid Meeting. Again, only statements which are made by LYNX in writing may be relied upon.

**7. Requests for Clarification/Questions**

All questions from any Bidder regarding the IFB or matters relating thereto shall be submitted to LYNX in writing no later than date specified in **Block 6** of the IFB Cover Page. Each question shall identify the section number in this IFB for which clarification is being requested. LYNX shall respond via an Addendum to all properly submitted questions at least five (5) business days prior to the date that Bids are due. The Addendum will be posted on LYNX Procurement Website. All such questions shall be sent to the Procurement Representative listed in **Block 3** of the Bid Cover Page.

**8. Non-Solicitation of LYNX During Blackout Period – Cone of Silence**

During the period from the date of this IFB, through the period that the LYNX Board of Directors or Chief Executive Officer approves the award of a Contract (including any period during which a procurement protest (“Protest”) has been filed and is pending), Bidders may not directly or indirectly contact any LYNX Board Member, any LYNX employee, or LYNX’s legal counsel regarding this IFB except for questions directed to LYNX as expressly provided in **Section 7** above or except as expressly authorized under the Protest procedure set forth in **Section 15**. Any prohibited contact may result in the immediate disqualification of the Bidder from consideration for the award of the Contract and the rejection of any Protest.

**9. Bid Preparation**

Each Bid shall be made only on this IFB. Each Bid shall be enclosed in a sealed envelope or package with the name and address of the Bidder clearly stated. The outside of the envelope shall state the IFB number, title, and due date. All blank spaces in the offer shall be filled in and no changes shall be made in the wording. As consideration for any Bidder’s Bid being considered by LYNX in its award of the Contract, each Bidder hereby agrees that (1) the Bid shall be on such form as LYNX provides and shall be sealed; and (2) any revocation or modification of the Bid shall only be on the same form(s) and submitted in the same manner that the original Bid was submitted prior to the date on which the Bids are due.

**Bid Format**

In preparing the Bid, please double-side print all sections to reduce paper consumption and use recycled products, where feasible. Bids shall be prepared on 8.5” x 11” paper with 1” margins on all sides. Typing shall be single spaced and no smaller than font size 11. Use of 11” x 17” fold out sheets for large tables, charts or diagrams is permissible, but should be limited. Each part of the Bid should be clearly labeled and tabbed for easy reference. Bidder shall prepare their Bid response, include tabs between sections, and return as stated below:

**A. Cover Letter**

1. A cover letter transmitting the Bid must be submitted and dated. The letter must indicate that the Bidder agrees to be bound by the Bid without modifications, unless mutually agreed to upon further negotiations between LYNX and the Bidder. The letter must contain a statement that the Bid is valid for one hundred twenty (120) days.
2. The cover letter shall contain the name, title, address, email address, and telephone number(s) of an individual(s) with authority to bind the Bidder during the period in which LYNX is evaluating Bids. The cover letter shall also identify the legal form of the Bidder.
3. The cover letter shall identify in which state the company is incorporated. If a consortium, joint venture or team approach is being proposed, provide the above information for all participating firms. The Bidder should specifically describe the Bidder's role in relationship to its subcontractors and shall describe the interfaces with said subcontractors.

4. The cover letter shall be signed by a principal of the Bidder or other person fully authorized to act on behalf of the Bidder.

#### **B. References**

Bidders must provide a minimum of three (3) references. The reference will contain the company's name, address, phone number, point of contact, email address and the type of filters provided. Bidder must indicate if the reference is from the private and/or public sector. (Please see Exhibit L)

#### **C. Account Executive**

Bidders must provide the name and contact information of the person who will be assigned as LYNX's account representative. This information shall also include additional name(s) and contact information for escalating any issues above the Account Executive.

#### **D. Ordering Process**

Bidders must describe the ordering process for the equipment/supplies. Discussion on options such as website/electronic ordering shall be included in the discussion.

#### **E. Pricing Schedule (Exhibit K)**

Bids must be received by LYNX before the specified time and date and shall be prepared in accordance with the following:

1. The enclosed Pricing Schedule (Exhibit K) shall be used in submitting the Bid.
2. All information required by the Pricing Schedule (Exhibit K) shall be furnished. The Bidder shall print or type his/her name and manually sign the schedule and each continuation sheet on which an entry is made.
3. Unit prices shall be shown and where there is an error in extension of price, the unit price shall govern.
4. Alternate Bids will not be considered unless authorized by the Invitation for Bid.
5. Proposed delivery time must be shown and shall exclude Saturdays, Sundays, and holidays.
6. LYNX does not pay Federal, State, or Sales Tax. A Tax Exempt Certificate is available upon request.
7. Bidders shall thoroughly examine the specifications, instructions, and all other documents prior to submitting a Bid.
8. Bidders shall make all investigations necessary to thoroughly inform themselves regarding the Bid conditions. No plea of ignorance by the Bidder of conditions that exist or that may hereafter exist as a result of failure or omission on the part of the Bidder to make the necessary examinations and investigations, or failure to fulfill in every detail the requirements of the contract documents, will be accepted as a basis for varying the requirements of LYNX or the compensation to the Bidder.
9. If no request for clarification is submitted by Bidder, all conditions and requirements contained within are accepted and understood by Bidder.

#### **F. Description of Supplies/Equipment**

1. Any manufacturer's names, trade names, brand name, or catalog numbers used in specifications are for the purpose of describing and establishing general quality levels. SUCH REFERENCES ARE NOT INTENDED TO BE RESTRICTIVE. Bids will be considered for any brand which meets the quality of the specifications listed for any items. Bidders should submit any request for "approved equals" by the deadline for Questions, as shown on the cover page (**Block 6**).
2. Bidders are required to state exactly what they intend to furnish; otherwise, they shall be required to furnish the items as specified.
3. Bidders will submit, by the deadline for Questions, as shown on the cover page (**Block 6**) and with their Bid Form, data necessary to evaluate and determine the quality of the Item(s) they are bidding.
4. Quantities are only estimates. LYNX has the right to change or modify the number required. LYNX has the right to award any quantities.

#### **G. Table of Content/Bid Format**

1. Tab One (1)

Please include the below in Tab One (1) of your proposals

- Cover Letter
- Account Executive Information

- Company Business License: Must be authorized to do business in the State of Florida
  - Insurance Certification
  - All Executed Forms for this Solicitation
  - References
2. Tab Two (2)
    - Equipment/Supplies literature, description, manufacturer information, warranty, etc.
    - Description of Ordering Process
  3. Tab Three (3)
    - Pricing Schedule (Exhibit K) and supporting documents
  4. Tab Four (4)
    - Any additional Bidder's requirements of LYNX, additional information to be considered, or any information that LYNX may have omitted and that is required to properly provide the requested services.

#### **10. Submission of Bids**

The Bidder shall submit to LYNX one (1) original, six (6) copies, and one (1) original on a flash drive of its Bid, which shall be received by LYNX no later than the date and time specified in **Block 8** of the IFB cover page. The envelope containing the Bid shall be marked with the IFB number and title as set forth on the cover page of this IFB. Bids may be hand delivered, mailed, or sent via a reputable national courier (such as UPS or FedEx). All Bids shall be delivered to the following address:

**Central Florida Regional Transportation Authority d/b/a LYNX  
Attn: Varun Desai, Senior Purchasing Agent  
455 North Garland Avenue, Orlando, Florida 32801-1518**

All Bids **must be received** by LYNX by the date and time set forth in **Block 8** of the IFB Cover Page. Any Bid not timely received will be rejected.

#### **11. Bid Modification or Withdrawal**

Prior to the date and time set for the receipt of Bids, a Bid may be modified or withdrawn by the Bidder. All such modifications shall be made in writing, either hand delivered, mailed or sent via a reputable national courier to the address above for receiving Bids. Any request to withdraw a Bid shall be in writing and received by LYNX (in the same manner as the Bid was submitted) by no later than the deadline date and time set forth for the receipt of Bid. If timely received, LYNX shall return unopened the Bid if requested, to the Bidder, at the Bidder's expense. If a modification is timely received by LYNX prior to the date and time set for the receipt of Bids, then that modification shall be considered by LYNX as a part of the original Bid.

#### **12. Validity/Term of Bids**

Bids shall be valid for not less than one hundred and twenty (120) days after the due date and time for the receipt of Bids. In the event of a Protest, the one hundred and twenty (120) day period shall be extended and the Bids shall remain valid for a period of ninety (90) days after the earlier of (i) the resolution of the Protest, and the posting of said award (see below), and no further Protest.

#### **13. Revisions and Amendments to the Bid**

LYNX reserves the right, in its absolute discretion, to revise or amend this IFB, including the Scope of Work, up to the time set for receipt of the Bids. Any such revision or amendment, if any, shall be sent via email to all Bidders who have requested a copy of this IFB and furnished LYNX with their correct email address. In the event that this IFB is revised or amended within five (5) business days of the date set for opening Bids, LYNX may extend the IFB opening date. The form transmitting the revision or amendment shall be signed by the Bidder, acknowledging its receipt, and copy of the signed document shall be included in the Bid documents. **Failure to (i) sign the form transmitting the revision or amendment, and (ii) include the signed form in the Bid may, in LYNX's sole and absolute discretion, result in the rejection of the Bid.**

#### **14. Bid Rejection**

LYNX may at any time reject any (i) Bid which LYNX deems, in its sole and absolute discretion, to be incomplete, (ii) Bid which LYNX deems, in its sole and absolute discretion, fails to conform to the requirements of this IFB, or (iii) Bid which LYNX deems, in its sole and absolute discretion, takes exception to the Scope of Work. LYNX reserves the right in any event to (a) waive any informalities or irregularities in any Bid which LYNX determines, in its sole and absolute discretion, to be minor, or (b) reject all Bids and resolicit the procurement.

#### **15. Protest Procedures**

In the event any person wishes to file a Protest regarding this IFB, such Protest shall be made in accordance with LYNX **Administrative Rule 6** (which is available at [www.golynx.com](http://www.golynx.com)), the terms of which are hereby included herein by this reference. LYNX reserves the right to modify the terms of the Protest procedure if it determines that such modification is in its best interest. Should there be any dispute between LYNX **Administrative Rule 6** and the provisions of this **Section 15**, LYNX in its discretion shall determine which provision governs.

By way of background, all Bidders understand and agree that the procurement process undertaken by virtue of this IFB is solely for the benefit of LYNX, and it is for LYNX to determine in its discretion which Bid LYNX desires to accept. LYNX has provided for a Protest procedure not to grant any rights to any particular Bidder but, rather, to provide LYNX the opportunity to review and examine any information regarding any Bid which it may not have fully evaluated. Thus, no Bidder has any legal right in connection with any Protest Proceeding and LYNX may, in its discretion, determine whether or not to reject any Protest.

In the event a Protest is rejected, the Bidder may appeal the rejection as set forth in LYNX **Administrative Rule 6** or herein but, again, said appeal shall be decided by LYNX based upon what it determines to be in its best interest. As such, legal concepts (such as the Florida or Federal Rules of Civil Procedure and the Judicial Rules of Evidence) and other matters which may be applicable to judicial or other proceedings are not applicable to a Protest in accordance with LYNX Administrative Rules. In addition, the appeal process set forth in the LYNX Administrative Rule is exclusive and upon the exhaustion of the appeal, no further appeal may be taken or separate suit filed against LYNX.

By virtue of submitting its Bid, any Protesting Party expressly agrees that its remedies are exclusively limited to the LYNX Protest procedure set forth in LYNX **Administrative Rule 6** (as the same may be modified hereby) and that there shall be no appeal or litigation resulting from the final award of any Contract by LYNX. The foregoing is a material consideration in the consideration by LYNX of any Bid.

In the event a Protest is filed, LYNX **Administrative Rule 6** requires that a cash bond be posted with LYNX at the time the Protest is filed. In addition, a Protest shall meet strict time limitations for filing. Reference is made to LYNX **Administrative Rule 6** for these and other matters relating to any Protest.

#### **16. Award**

The Contract may be awarded to the low, responsive, and responsible Bidder(s) whose offer, in the sole and absolute discretion of LYNX, conforms to the Solicitation and is most advantageous to LYNX. The Bidder(s) recommended for award must sign a complete Contract prior to final award and within seven (7) business days of issuance of the Notice of Intent to Award and provision to the Contractor of the final Contract document (which will be based on the sample Contract provided in the solicitation). The selected Bidder is required to enter into a Contract with LYNX in accordance with the terms of its Bid.

LYNX reserves the right to delete, add to, or alter provisions of the Contract (including any conflicting provisions of this IFB). LYNX also reserves the right at any time, in its absolute discretion, to cancel the IFB and "Rebid".

The procurement process relating to this IFB is solely to benefit LYNX and for LYNX to determine in its discretion which Bidder is entitled to enter into a Contract with LYNX. Although LYNX provides for a Protest procedure, once LYNX selects a Bidder to contract with, that will terminate any further right of Protest by any Bidder. In addition, no Bidder is granted any right to file any lawsuit against LYNX. Bidder, by virtue of submitting a Bid, expressly agrees to waive any right to bring any judicial or other action against LYNX, and that

the Protest procedure set forth in LYNX **Administrative Rule 6** is the exclusive procedure to protest the award of any Contract. Each Bidder by submitting its Bid expressly agrees to these limitations.

**17. Next Most Advantageous Bid**

In the event that the selected Bidder fails or refuses to enter into a Contract with LYNX, then LYNX may award the Contract to the Bidder who submits a Bid that LYNX determines, in its sole and absolute discretion, is the next most advantageous to LYNX. LYNX also reserves the right at any time, in its absolute discretion, to cancel the IFB and “Rebid”.

**18. The Public Records Act and Trade Secret Information**

The Bidder is aware and understands that LYNX is a public entity and, as such, it is subject to the Florida Public Records Act. Subject to certain exemptions, Bids received by LYNX are public records and may be subject to disclosure upon the earlier of such time as LYNX provides notice of its decision or intended decision to award a Contract or ten (10) days after the date that Bids are opened. The Bidder is aware of this fact and that it is possible that its Bid may be disclosed by LYNX pursuant to a public records request, particularly if another Bidder files a Protest to the procurement.

A Bidder’s Bid may include certain information which the Bidder believes to be a “trade secret.” If a Bidder would like for LYNX to treat such information as confidential, particularly in the event LYNX receives a public records request, then the Bidder shall clearly, in bold and large type, identify the specific information which it deems to constitute a trade secret and be confidential. It is unacceptable to LYNX for the Bidder to classify, for example, its entire Bid as trade secret and thus confidential.

In the event LYNX receives a request for a copy of a Bidder’s Bid, LYNX shall endeavor to notify the Bidder and shall endeavor to comply with the Public Records Law as to what is required to be produced. Absent any clear identification by the Bidder that a portion of its Bid is a trade secret and is confidential, LYNX shall furnish a copy of the Bid in response to any valid public records request and LYNX shall have no liability whatsoever for such disclosure. If the Bidder so identifies a portion of its Bid as being a trade secret and confidential, or if LYNX, in its discretion, determines that a portion of the Bid is not subject to disclosure and should not be disclosed (such as if the disclosure would compromise LYNX security systems), LYNX shall endeavor to assert said exemption. In the case of any exemption being asserted by LYNX based upon action by the Bidder (e.g., the Bidder asserts that information in its Bid is a trade secret and, as a result, LYNX declines to satisfy a public records request for the portion of the Bid which has been identified as a trade secret), the Bidder shall indemnify and hold LYNX harmless from any claims, expenses, including attorneys’ fees, that LYNX may incur if the person requesting said information pursues its demand that the public record be furnished.

**19. Bidder Affirmation**

By submitting its Bid, the Bidder affirms and declares:

1. That the Bidder or its subcontractors have the capability to assure performance of work within the time specified under the Contract.
2. That the Bidder has the capability of providing personnel to satisfy any technical or service problems that may arise during the term of the Contract.
3. That the Bidder has the necessary facilities and financial resources to complete the Contract in a satisfactory manner and within the required time.
4. That the Bidder, if an individual, is of lawful age.
5. That no other person, firm or corporation has any interest in its Bid or the Contract proposed.
6. That the Bidder has not divulged to, discussed, or compared its Bid with other Bidders and has not colluded with any other Bidder or parties to a Bid whatsoever. (NOTE: No premiums, rebates, or gratuities are permitted either with, prior to, or after any delivery of materials.) Any such violation shall result in the cancellation and/or return of materials (as applicable) and the removal of the offending vendor from Bidder List(s).
7. That the Bidder and its subcontractors are not currently in arrears to LYNX and have not defaulted, as a surety or otherwise, under any obligation to LYNX.
8. That the Bidder is not on the Comptroller General’s list of ineligible contractors.



9. That, if awarded the Contract, the Bidder shall post a notice in a conspicuous place within the plant or work site stating the Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, creed, age, disability, or national origin.

**EXHIBIT B**  
**SCOPE OF WORK AND TECHNICAL SPECIFICATIONS**

**1. OVERVIEW**

The purpose of this solicitation is to obtain Bids from a qualified Bidders for Purchase and Delivery of remanufactured Cummins Engines for LYNX Transit Buses.

LYNX will use funding from Federal Transit Administration (FTA) for the purchase of these engines. All FTA terms and conditions will apply.

**2. OBJECTIVES**

LYNX has 313 transit buses in its fleet. LYNX seeks to secure a company to supply remanufactured Cummins engines from a certified Cummins’s remanufacturing facility only. This is a formal solicitation and it is expected that Bidders follow the submittal guidelines contained in this document.

The successful Bidder will ship/deliver all remanufactured Cummins Engines, FOB destination, to LYNX at 2500 LYNX Lane, Orlando, Florida 32801. All costs must be included in the Bid. The resulting contract from this Bid will be for a term of 5 years.

**3. FLEET LISTING**

Below is a listing of existing LYNX fleet, providing projected engines planned to be replaced within next 5 years. LYNX reserves the right to update this list as business requirements dictate.

Bus & Engine - Models & Quantities							
	Engine Service Model Name	Sample Serial #	Fuel Type	Bus & Engine Model Year	Bus Make	Planned Replacement Year	Max. Replacement Qty.
1	CUMMINS ISL9 CM2250	73442768	Diesel	2012	Gillig	2018	10
2	CUMMINS ISL9 CM2350 L101	73539626	Diesel	2013	Gillig	2019	11
3	CUMMINS ISL9 CM2350 L101	73627535	Diesel	2014	Gillig	2020	12
4	CUMMINS ISL9 CM2350 L101	73764450	Diesel	2015	Gillig	2021	19
5	CUMMINS ISL G CM2180	73872199	CNG	2015	Gillig	2022	15

**4. REPLACEMENT PLAN**

Below are the lists for the 5 year plan of scheduled engine replacements, grouped by fiscal year. The intent is to replace the engines with remanufactured units at roughly the midlife of the bus. The main purpose is to ensure the bus is operating at its peak efficiency in terms of fuel economy and with respect to the control of environmentally damaging emissions. These are things that degrade dramatically as the engine ages. A planned replacement of the engines will result in an overall reduction in operating costs of the vehicle and reduced downtime resulting from unexpected failures and by shifting the costs to a grant funded capital expenditure. The buses and engines identified may change due to unexpected engine failures or unscheduled bus disposals due to accidents or for other reasons.

The Bidder must supply remanufactured Cummins Recon engines from a certified Cummins remanufacturing facility only. LYNX current engine types, characteristics and parameters are listed below. Bidder must include how many engines of each type they normally stock at their facility.

<b>FY 2018 – RPLACEMENT PLAN</b>						
<b>ROW</b>	<b>Bus ID</b>	<b>Engine Component ID</b>	<b>Current Engine Serial Number</b>	<b>Life Cycle Status Code ID</b>	<b>Current Odometer</b>	<b>Model Year</b>
1	107-412	EN475-107-412	73442768	A	364,541	2012
2	108-412	EN476-108-412	73442762	A	336,647	2012
3	109-412	EN477-109-412	73442798	A	344,653	2012
4	110-412	EN478-110-412	73442789	A	300,623	2012
5	111-412	EN479-111-412	73442759	A	325,781	2012
6	112-412	EN480-112-412	73442755	A	332,954	2012
7	113-412	EN481-113-412	73442774	A	350,465	2012
8	114-412	EN482-114-412	73437901	A	335,047	2012
9	116-412	EN484-116-412	73437894	A	334,740	2012
10	117-412	EN485-117-412	73437898	A	337,228	2012

<b>FY 2019 – RPLACEMENT PLAN</b>						
<b>ROW</b>	<b>Bus ID</b>	<b>Engine Component ID</b>	<b>Current Engine Serial Number</b>	<b>Life Cycle Status Code ID</b>	<b>Current Odometer</b>	<b>Model Year</b>
1	118-413	EN486-118-413	73539626	A	262,600	2013
2	119-413	EN487-119-413	73524313	A	283,156	2013
3	120-413	EN488-120-413	73539629	A	283,380	2013
4	121-413	EN489-121-413	73539624	A	287,177	2013
5	122-413	EN490-122-413	73539625	A	263,088	2013
6	123-413	EN491-123-413	73544532	A	297,441	2013
7	124-413	EN492-124-413	73533693	A	274,124	2013
8	125-413	EN493-125-413	73546867	A	284,585	2013
9	126-413	EN494-126-413	73537900	A	262,177	2013
10	127-413	EN495-127-413	73541468	A	270,440	2013

11	128-413	EN496-128-413	73539628	A	252,797	2013
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FY 2020 – RPLACEMENT PLAN						
ROW	Bus ID	Engine Component ID	Current Engine Serial Number	Life Cycle Status Code ID	Current Odometer	Model Year
1	148-414	EN511-148-414	73624648	A	249,094	2014
2	149-414	EN512-149-414	73622573	A	260,324	2014
3	150-414	EN513-150-414	73622525	A	262,692	2014
4	151-414	EN514-151-414	73622576	A	252,556	2014
5	152-414	EN515-152-414	73622570	A	259,943	2014
6	153-414	EN516-153-414	73622540	A	236,594	2014
7	154-414	EN517-154-414	73622510	A	244,414	2014
8	164-414	EN527-164-414	73644999	A	209,532	2014
9	165-414	EN528-165-414	73637840	A	263,474	2014
10	166-414	EN529-166-414	73637846	A	240,128	2014
11	167-414	EN530-167-414	73637820	A	251,955	2014
12	168-414	EN531-168-414	73637410	A	266,348	2014

FY 2021 – RPLACEMENT PLAN						
ROW	Bus ID	Engine Component ID	Current Engine Serial Number	Life Cycle Status Code ID	Current Odometer	Model Year
1	170-415	EN534-170-415	73764450	A	235,028	2015
2	171-415	EN535-171-415	73775656	A	228,511	2015
3	172-415	EN536-172-415	73775651	A	233,023	2015
4	173-415	EN537-173-415	73775648	A	233,623	2015
5	174-415	EN538-174-415	73778535	A	206,257	2015
6	175-415	EN539-175-415	73772317	A	230,260	2015
7	176-415	EN540-176-415	73772287	A	228,949	2015
8	177-415	EN541-177-415	73778849	A	226,062	2015
9	178-415	EN542-178-415	73772282	A	226,511	2015
10	179-415	EN543-179-415	73764468	A	225,437	2015
11	180-415	EN544-180-415	73778461	A	234,372	2015
12	181-415	EN545-181-415	73782069	A	219,467	2015
13	182-415	EN546-182-415	7378740	A	210,379	2015
14	183-415	EN547-183-415	73772299	A	214,700	2015
15	184-415	EN548-184-415	73783362	A	217,837	2015
16	185-415	EN549-185-415	73783361	A	216,248	2015
17	186-415	EN550-186-415	73783364	A	225,825	2015
18	187-415	EN551-187-415	73767451	A	220,371	2015
19	188-415	EN552-188-415	73775765	A	216,592	2015

FY 2022 – RPLACEMENT PLAN						
ROW	Bus ID	Engine Component ID	Current Engine Serial Number	Life Cycle Status Code ID	Current Odometer	Model Year
1	191-415	EN560-191-415	73872199	A	134,731	2015
2	192-415	EN561-192-415	73868813	A	136,056	2015
3	193-415	EN562-193-415	73868798	A	139,423	2015
4	194-415	EN563-194-415	73878566	A	126,241	2015
5	195-415	EN564-195-415	73872206	A	137,454	2015
6	196-415	EN565-196-415	73890705	A	128,501	2015
7	197-415	EN566-197-415	73896331	A	127,811	2015
8	198-415	EN567-198-415	73893048	A	134,884	2015
9	199-415	EN568-199-415	73896350	A	134,411	2015
10	200-415	EN569-200-415	73890713	A	120,524	2015
11	201-415	EN570-201-415	73899314	A	77,202	2015
12	202-415	EN571-202-415	73899636	A	135,528	2015
13	203-415	EN572-203-415	73899647	A	110,481	2015
14	204-415	EN573-204-415	73893514	A	143,729	2015
15	205-415	EN574-205-415	73893542	A	135,074	2015

**5. ADDITIONAL INSTRUCTIONS:**

All engines must be remanufactured to the latest specifications following the OEM guidelines using all new gaskets, seals, bushings and bearings. In addition, remanufactured (Cummins Recon) engines must include the following latest specification new or OEM remanufactured subcomponents:

- Cylinder Block (new or remanufactured)
- Crankshaft (new or remanufactured)
- Cylinder Head (new or remanufactured)
- Connecting Rods (new)
- Camshaft (new or remanufactured)
- Pistons, Rings and liners (new)
- Injectors (new or remanufactured)
- Fuel Pump (new or remanufactured)
- Fuel Lines (new)
- Oil Pan (new or remanufactured)
- Oil Cooler (new or remanufactured)
- Lube Pump (new)
- Thermostat Housing (new or remanufactured)
- Turbocharger (new or remanufactured)
- Valve Cover (new or remanufactured)
- Water Pump (new)
- Exhaust Manifold (new or remanufactured)
- Wiring Harness (new)
- ECM (new or remanufactured)

Application specific ECM programming and calibration shall be included in the purchase cost of the engine.

**6. QUALIFICATION FOR AWARD:**

Minimum Qualifications: Bidder must provide a minimum of three (3) references that demonstrate five (5) years of experience providing remanufactured Cummins engines to public or private entities.

- a. Failure to submit requested references at the time of Bid submittal may result in the Bid being declared non-responsive.
- b. Bidder may be declared non-responsible if the references provided cannot verify the required experience as described in this IFB.
- c. Bidders must supply engines from a Certified Cummins Remanufacture only.
- d. Bidders failing to demonstrate the stated minimum qualifications may be deemed non-responsible, at the sole discretion of LYNX.

LYNX shall make such investigations as deemed necessary to determine ability of Bidder to perform the work, and Bidder must furnish to LYNX all such information and data for this purpose that LYNX may request. LYNX reserves the right to reject Bid of any Bidder, who has previously failed to perform properly, or to complete on time, contracts of similar nature; who is not in a position to perform required services, or who has habitually and without cause neglected payment of bills or otherwise disregarded obligations to a subcontractor, supplier, or their employees.

It is the responsibility of the Bidder to determine the viability of entities who will be subcontractors to the work during the contract period. LYNX will not be responsible to increase the cost of the services to change subcontractor(s), or suppliers of the work when they fail to perform or start the requested services.

**7. VERIFICATION**

Each engine must have a metal plate riveted on the engine with Cummins name, address, serial number, model, horsepower, and the words "Remanufactured by Cummins Recon Engine".

**8. ORDERING PROCESS**

Bidders are to describe their ordering instructions that may be required of LYNX to place orders. Describe if online ordering is available and/or specified order quantity / delivery dates can be preset. Bidders are to state the delivery time from receipt of order.

**9. QUANTITIES**

The quantities specified are based upon the best available estimates, taking into consideration the consumption during the past periods, and do not determine the actual amount that LYNX will order during the contract period. The quantities are subject to change. Actual payments will be based on actual quantities ordered based on the unit rates bid.

LYNX reserves the right to purchase more or less of the estimated quantities and no Bidder should attempt to hold the quantities shown as a firm quantity under this contract. LYNX does not guarantee any specific quantity or dollar value of goods or services to be purchased during the life of the contract. LYNX is allowed to order at any time, in any quantity during the life of this contract.

#### **10. DELIVERY**

The delivery of Cummins Recon remanufactured engines must occur within 7 business days maximum. Delivery charges and all other charges must be included in each unit price (Bid Price). All deliveries must be FOB Destination. No additional charges will be allowed for delivery. The specified items must be delivered to LYNX within Seven (7) business days after the placement of an order. Deliveries must be made to **2500 LYNX Lane, Orlando, FL 32804**.

Deliveries must be made Monday through Friday between the hours of 6:00 AM and 5:30 PM excluding holidays. The Bidder must prepare delivery tickets that indicate the types of Cummins Recon remanufactured engine(s), serial number (s) and quantities that are delivered. The Bidder should obtain the signature of LYNX personnel receiving the delivery of the engine(s). A copy of each signed delivery ticket must be provided to LYNX.

If at any time during the Contract, the Bidder fails to comply with the delivery requirements, LYNX will have the right to cancel the Contract.

The Bidder should submit an invoice having the cost for the number of engines delivered with each shipment. LYNX will pay for only those engines that have been delivered.

#### **11. TESTING, INSPECTION AND ACCEPTANCE**

All engines will be dyno-tested to ensure the remanufactured engine meets original factory technical specifications and standards. Test result verification documents must be shipped with engine at time of delivery to LYNX. Failure to include the documents with the shipment may result in LYNX rejecting the shipment.

#### **12. QUALITY GUARANTEE**

- a. Unless otherwise specifically provided in the specifications, all equipment, materials, and articles incorporated in the work covered by any resulting contract should be new and of the most suitable grade for the purpose intended.
- b. If any product/service delivered does not meet performance representations or other quality assurance representations as published by manufacturers, producers or distributors of such products or the specifications listed in this solicitation, the Bidder should pick up the product from LYNX at no expense to LYNX.

#### **13. OTHER DOCUMENTS**

Bidders should submit any other documents necessary to complete this Bid. This may include technical information or product brochures.

#### **14. BID PRICE**

Bidders must agree to accomplish all work furnish, all items, and materials that are awarded to them as a result of their response to this solicitation at the price(s) indicated on the respective Pricing Schedule (**Exhibit K**). Bidders must guarantee that said price(s) is firm, not subject to escalation, for One Hundred Twenty (120) days after Bid opening. Submittal of a Bid, is prima facie evidence of the Bidder's intent to comply with this requirement. Any Bid submitted with escalation clauses will be rejected.

#### **15. OSHA COMPLIANCE**

Bidders must agree that the products furnished and application methods will comply with applicable provisions of the Williams-Steiger Occupational Safety and Health Act of 1970.

#### **16. FREIGHT**

All freight pickup, delivery, handling costs should be the responsibility of the Bidder including warranty replacements and reflected in their response to this IFB.

**17. CORE RETRUN**

Once an order has been received by LYNX, it is LYNX's intent to return the same number of cores to the Bidder within Five (5) business days. The Bidder must supply a return call tag to LYNX for each unit shipped. The Bidder is responsible for providing packaging, instructions and materials to LYNX and arranging for shipping. All costs associated with shipping cores will be the responsibility of the Bidder.

LYNX shall make every attempt to provide an acceptable core for every remanufactured unit ordered. If a core is not available or has been determined by both the Bidder and LYNX to be unacceptable the core charge will apply. An exchange of older model cores may be upgraded to later models as fleets retire with mutual consent between LYNX and the Bidder. The upgraded core charge will be determined by the prices listed in the Contract.

**18. WARRANTY & GUARANTEE**

All remanufactured engines and attached components provided by the Bidder must be warranted and guaranteed from defects and related defects for two (2) years or 200,000 miles. The warranty begins when the remanufactured engine is put into service at LYNX. The warranty will NOT start at the time of delivery. It is anticipated that installation of all engines will be completed within sixty (60) days of delivery.

Any engine that fails prior to the end of the warranty period will be repaired or replaced by the Bidder within ten (10) business days from notification from LYNX. Failure to meet the required repair/replace time due to unforeseen extenuating delays or product problem should be communicated to LYNX with supporting documentation.



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**EXHIBIT C**  
**TERMS and CONDITIONS**

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The successful Bidder(s) shall comply with the following required contract provisions and shall insert the substance of these provisions in all subcontracts issued pursuant to this contract.

**1. Contract Type**

The award of this solicitation shall result in a Firm Fixed Price (FFP) Contract.

**2. Contract Documents**

Any Contract(s) resulting from this Solicitation shall include the following documents, which are incorporated herein (collectively referred to as the "Contract Documents"):

1. Exhibit B – Scope of Work
2. Exhibit D – General Provisions
3. Exhibit E – Bidder’s Offer & Guarantees
4. Exhibit F – Certification Regarding Debarment
5. Exhibit G – Certification Regarding Lobbying
6. Exhibit H – E-Verify
7. Exhibit K – Pricing Schedule
8. Bidder’s Bid

**3. Period of Performance/Contract Term**

This Contract will be for a period of Five (5) years from the date of award.

**4. Purchase Orders**

LYNX shall issue a Purchase Order to fund the services.

**5. Invoicing and Payment Terms**

The Bidder shall submit a proper invoice on a monthly basis to the address shown below. LYNX reserves the right to return an invoice which is incomplete.

Invoices shall be paid within 30 days from receipt of a proper invoice.

LYNX

Attn: Accounts Payable  
455 N. Garland Ave  
Orlando, FL 32801

The invoice shall contain the following information;

1. Invoice Number
2. Purchase Order Number
3. Description of Work Performed
4. Contact Person and Phone Number
5. Payment Remit Address

**6. Contract Modifications**

No change in this contract shall be made unless LYNX gives its prior written approval. Therefore, the Bidder shall be liable for all costs resulting from, and/or for satisfactorily correcting, any specification change not properly ordered by

written modification to the contract and signed by the Contracting Officer. Any changes requested by the Bidder shall be submitted to the Contract Administrator assigned under this contract.

**7. Project Manager**

The Project Manager (PM) assigned to this contact is responsible to ensure the goods provided under this contract are in compliance and handling warranty issues. The Project Manager has no authority to make any changes to the contract.

**8. Senior Purchasing Agent**

The Senior Purchasing Agent assigned to this contract is responsible to ensure the Bidder is in compliance with the contract. Any requests for Contract changes must be sent directly to the Senior Purchasing Agent. All DBE reporting (if required) shall be submitted to the Senior Purchasing Agent as required.

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**EXHIBIT D**  
**LYNX GENERAL PROVISIONS**

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**6.01 PROVISIONS APPLICABLE TO ALL CONTRACTS**

**6.01.01. Accident Prevention.** The Contractor shall provide and maintain Work environments and procedures, which will safeguard the public and LYNX personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities; avoid interruptions of LYNX operations and delays in project completion dates; and control costs in the performance of the Contract. Whenever the Contracting Officer becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or LYNX personnel, the Contracting Officer shall notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the work site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take corrective action, the Contracting Officer may issue an order stopping all or part of the Work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any equitable adjustment of the Contract price or extension of the performance schedule on any stop work order issued under this clause. The Contractor shall insert this clause with appropriate changes in the designation of the parties, in subcontracts.

**6.01.02. Americans with Disabilities Act.** All design and construction must be accessible to individuals with disabilities pursuant to Titles II and III of the Americans with Disabilities Act.

**6.01.03. Application Of Federal Laws Clause.** Contractor understands that Federal, state and local laws, regulations, policies, and related administrative practices ("Laws") applicable to the Contract on the date the Contract was executed (the "Execution Date") may be modified from time to time, or new Laws may be established after the Execution Date. Contractor agrees that the most recent of such Laws will govern the administration of the Contract at any particular time, unless there is sufficient evidence in the Contract of a contrary intent. Such contrary intent might be evidenced by express language in the Contract, or a letter signed by the Federal Transit Administrator, the language of which modifies or otherwise conditions the text of a particular provision of the Contract.

**6.01.04. Audits and Inspection.** The Contractor shall maintain books, records, documents, and other evidence directly pertinent to performance of the Work under the Contract in accordance with generally accepted accounting principles and practices consistently applied and Federal Acquisition Regulation Parts 30 and 31 (48 C.F.R. 30 and 31). The Contractor shall also maintain the financial information and data used by the Contractor in the preparation or support of the cost submissions required for the Contract, or any Change Order or claim, and a copy of the cost summary submitted to LYNX. LYNX, the U.S. Government, and the State Government or their authorized representatives shall have access, at all times during normal business hours, to such books, records, documents, and other evidence for the purpose of inspection, audit, and copying. The Contractor will provide proper facilities for such access and inspection. The rights granted LYNX and the government under this provision shall remain in full force and effect for the longer of: (a) three (3) years after termination of the Contract for whatever reason, or (b) the date on which all litigation, appeals, claims or exceptions related to any litigation or settlement of claims arising from the performance of the Contract are resolved or otherwise terminated. The foregoing record keeping obligations shall extend to any subcontractor performing Work valued in excess of ten thousand dollars (\$10,000.00). In addition, with respect to major capital projects, Contractor agrees to provide access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. §5302(a)(1), which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

**6.01.05. Civil Rights.** The Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age or disability, in accordance with the following Federal statutes and regulations, and any other implementing regulations issued pursuant to the: Civil Rights Act as amended, Titles VI (42 U.S.C. Sec. 2000d) and VII (42 U.S.C. Sec. 2000e); Age Discrimination Act of 1975, as amended, Sec. 303 (42 U.S.C. 6102); Age Discrimination Act of 1967 as amended, Sec. 4 (29 U.S.C. Sec 623); Americans with Disabilities Act of 1990, as amended, Sec. 202 (42 U.S.C. 12132), and Sec. 102 (42 U.S.C. Sec. 12112) and implementing regulations (29 C.F.R. Part 1630), Federal transit law (49 U.S.C. Sec. 5332); Executive Order 11246, as amended by Executive Order 11375 42 U.S.C. Sec. 2000e note) and implementing regulations (41 C.F.R. Parts 60 et seq.). The

Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by the Federal Transit Administration.

**6.01.06. Compliance With Law.** Contractor shall perform all Work hereunder in compliance with all applicable federal, state and local laws and regulations, including, but not limited to, any applicable licensing or permitting laws. The Contractor shall use only licensed personnel to perform Work required by law to be performed by such personnel and shall bear the costs of obtaining all necessary licenses and permits.

**6.01.07. Composition Of Contractor.** If the Contractor hereunder is comprised of more than one legal entity, each such entity shall be jointly and several hereunder.

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

(a) 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, 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.

(b) 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.

**6.01.09. Disadvantaged Business Enterprise.** Contractor will conform to 49 C.F.R. Part 26.

**6.01.10. Energy Conservation.** Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the Florida energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

**6.01.11. Federal Assistance and Incorporation of Federal Transit Administration (FTA) Terms.** The procurements under the Contract may be supported in part by Federal assistance under grants made by the Department of Transportation, Federal Transit Administration, pursuant to the Federal Transit Laws, 49 U.S.C. Chapter 53; Transportation Equity Act for the 21st Century 1998 (TEA-21), P.L. 105-178 as amended, TEA-21 Restoration Act 1998, P.L. 105-206; Sections 401 and 1555 of the Federal Acquisition Streamlining Act of 1994, 41 U.S.C. §403(11) and 40 U.S.C. §481(b), respectively; 49 C.F.R. Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; 49 C.F.R. Part 19, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations; Executive Order 12612, "Federalism," dated 10-26-1987; FTA Circular 5010.1C, "Grant Management Guidelines" dated 10-1-98; FTA Master Agreement; Appendix D, Best Practices Procurement Manual. When so funded, the Contract shall be subject to all rules and regulations promulgated pursuant thereto, as they may be amended from time to time during the course of the Contract. The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the Contract. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, dated June 19, 2003, as the same may be amended or superseded from time to time, 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 the Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any LYNX requests which would cause LYNX to be in violation of the FTA terms and conditions.

**6.01.12. 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 FTA Master Agreement (Form FTA MA (10) dated October 1, 2003) between Owner and FTA, as they may be amended or promulgated from time to time during the term of the Contract. Contractor's failure to so comply shall constitute a material breach of the Contract.

**6.01.13. Federal, State And Local Taxes.** The Contract price includes all applicable federal, state, and local taxes and duties. LYNX is exempt from state and local sales and use taxes. In addition, any such taxes included on any invoice or voucher received by LYNX shall be deducted from the amount of the invoice or voucher for purposes of payment.

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

**6.01.15. Indemnification.** Contractor shall fully indemnify and hold harmless LYNX and all of its directors, officers, employees, and agents from all claims demands, causes of action, damages, losses, and expenses (including attorney's fees), of whatsoever nature, character, or description that any person or entity has or may have arising out of or related to the breach of or failure to perform the Contract or any subcontracts hereunder or resulting from any negligent act, omission, misconduct, or fault of the Contractor or subcontractors and their employees and agents.

**6.01.16. Independent Contractor.** The Contractor at all times shall be an independent contractor. The Contractor shall be fully responsible for all acts and omissions of its employees, subcontractors, and their suppliers, and shall be specifically responsible for sufficient supervision and inspection to ensure compliance in every respect with the Contract requirements. There shall be no contractual relationship between any subcontractor and supplier of the Contractor and LYNX by virtue of the Contract. No provision of the Contract shall be for the benefit of any party other than LYNX and the Contractor.

**6.01.17. Interest Of Public Officials.** Contractor represents and warrants that no employee, official, or member of the board of LYNX, during his or her tenure or two years thereafter, is or will have a pecuniary interest or benefit directly or indirectly from the Contract or the proceeds thereof. Contractor further represents and warrants that it has not offered or given gratuities (in the form of entertainment, gifts, or otherwise) to any employee, official, or member of the Board of LYNX. For breach of any representation or warranty in this clause, LYNX shall have the right to annul the Contract without liability and/or have recourse to any other remedy it may have at law.

**6.01.18. Material and Workmanship.** All equipment, material, and articles incorporated into the Work covered by the Contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in the Contract. References in the specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor at its option, may use any equipment, material, article, or process that, in the judgment of the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in the Contract.

**6.01.19. No Obligation by the Federal Government.** Contractor and LYNX 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 of the Federal Government, the Federal Government is not a party to the Contract and shall not be subject to any obligations or liabilities to LYNX, the Contractor or any other party pertaining to any matter resulting from the underlying Contract. Contractor further agrees to include this clause, without modification, in any subcontract issued hereunder.

**6.01.20. Organization And Direction Of The Work.** When the Contract is executed, the Contractor shall, at the request of the Project Manager, submit to the Project Manager a chart showing the general executive and administrative organization, the personnel to be employed concerning the Work under the Contract, and their respective duties. The Contractor shall keep the data furnished current by supplementing it, as additional information becomes available. Work performance under the Contract shall be under the full-time resident direction of:

- (a) The Contractor, if the Contractor is an individual;

(b) One or more principal partners, if the Contractor is a partnership; or

(c) One or more senior officers, if Contractor is a corporation, association, or similar legal entity. However, if the Contracting Officer approves, a specific person may represent the Contractor in the direction of the Work or persons holding positions other than those identified in this paragraph.

**6.01.21. Publicity Releases.** All publicity releases or releases of reports, papers, article, maps or other documents in any way concerning the Contract or the Work hereunder which the Contractor or any of its subcontractor desires to make for purposes of publication in whole or in part, shall be subject to approval by the Contracting Officer prior to release.

**6.01.22. Prohibition Against Contingent Fees.** Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working solely for Contractor to solicit or secure the Contract and that Contractor has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for Contractor any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of the Contract. For the breach or violation of this provision, the Executive Director shall have the right to terminate the Contract without liability and, at its discretion, to deduct from the Contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

**6.01.23. Program Fraud and False or Fraudulent Statements or Related Acts.** Contractor agrees that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. Sec. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31 apply to its actions pertaining to the Contract. 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 the Contract Work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a Contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate. Contractor further agrees to include this clause, without modification, in any subcontract issued hereunder.

**6.01.24. Program Funding.** LYNX's performance and obligations to pay under the Contract are contingent upon the availability of various Federal, State and local funding.

**6.01.25. Subcontractors and Outside Consultants.** Any subcontractors and outside associates or consultants required by the Contractor concerning the services covered by the Contract will be limited to such individuals or firms as were specifically identified and agreed to by LYNX concerning the award of the Contract. Any substitution in such subcontracts, associates, or consultants will be subject to the prior approval of the Contracting Officer.

**6.01.26. Termination.**

(a) **Termination for Convenience.** LYNX may terminate the Contract, in whole or in part, at any time and for any reason by written notice to the Contractor when it is in the best interest of LYNX. 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 LYNX to be paid the Contractor. If the Contractor has any property in its possession belonging to LYNX, the Contractor will account for the same, and dispose of it in the manner LYNX directs.

(b) **Termination for Default.** If the Contractor fails to make delivery of the goods or to perform the services within the time specified herein or any extension thereof; or if the Contractor fails to perform any of the other provisions of the Contract, or so fails to make progress as to endanger performance of the Contract in accordance with its terms and, in either of these two circumstances, does not cure such failure within a period of ten (10) days after receiving such notice from LYNX, thereafter, LYNX may terminate the Contract for default and have the Work completed and the Contractor shall be liable for any resulting cost to LYNX. In the event of termination for default, the Contractor will only be paid the

Contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the Contract. If, 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 LYNX.

(c) **Termination Due to Insufficient Funds.** If at any time during the term of the Contract the LYNX Governing Board makes a determination that LYNX has insufficient funds with which to carry out its performance and obligations under the Contract, then LYNX may terminate the Contract by delivering a notice of termination to the Contractor. The effective date of any termination shall be the date which is thirty (30) days following the delivery of the notice of termination or such later date, if any, specified in the notice of termination. The Contractor shall be paid its costs, including Contract closeout costs, and profit on Work performed up to the time of termination. The Contractor shall promptly submit its claim for final payment to LYNX.

(d) **Termination Due to Failure to Receive a Grant or other Funding Device.** If at any time during the term of the Contract LYNX ceases to receive a grant or other funding device from a third party with which it intended to pay for the goods or services Contracted for, then, unless otherwise directed by the LYNX Governing Board, LYNX may terminate the Contract by delivering a notice of termination to the Contractor. The effective date of any termination shall be the date which is thirty (30) days following the delivery of the notice of termination or such later date, if any, specified in the notice of termination. The Contractor shall be paid its costs, including Contract closeout costs, and profit on Work performed up to the time of termination. The Contractor shall promptly submit its claim for final payment to LYNX.

(e) **Damages Upon Termination.** Any damages to be assessed to the Contractor as a result of a default termination or any claim by Contractor for costs resulting from a termination for convenience by LYNX, a termination due to insufficient funds by LYNX, or a termination due to a failure to receive a grant or other funding device by LYNX will be computed and allowable in accordance with federal regulations in effect at the time of termination.

**6.01.27. Truth in Negotiation.** Contractor agrees to execute a Truth-in-Negotiation Certificate in accordance with Florida Statutes §287.055 stating that the wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting.

## **6.02 PROVISIONS APPLICABLE ONLY TO CONTRACTS EXCEEDING TEN THOUSAND DOLLARS (\$10,000)**

**6.02.01. Recovered Materials.** With respect to contracts for items designated by the Environmental Protection Agency, when LYNX procures at least Ten Thousand Dollars (\$10,000) of such materials per year, 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 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. Part 247.

**6.02.02. Approval of Materials.** When required by the Contract or by the Contracting Officer, the Contractor shall obtain the Contracting Officer's approval of the material or articles, which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer full information concerning the material or articles, including, but not limited to the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When directed to do so by the Contracting Officer, the Contractor shall submit samples for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection. All Work under the Contract shall be performed in a skillful and workmanlike manner, unless a higher standard of care is specified. The Contracting Officer may require, in writing, that the Contractor removes from the Work any employee the Contracting Officer deems incompetent, careless, or otherwise objectionable.

### **6.02.03. Changes.**

(a) The Contracting Officer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the Work within the general scope of the Contract, including changes:

- (i) In the specifications (including drawings and designs);

- (ii) In the method or manner of performance of the work;
- (iii) In the Government-furnished facilities, equipment, materials, services, or site; or
- (iv) Directing acceleration in the performance of the work.

(b) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause, provided, that the Contractor gives the Contracting Officer written notice stating:

- (i) The date, circumstances, and source of the order; and
- (ii) That the Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the Work under the Contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the Contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than twenty (20) days before the Contractor gives written notice as required.

(e) In the case of defective specifications for which the Government is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(f) The Contractor must assert its right to an adjustment under this clause within thirty (30) days after:

- (i) Receipt of a written change order under paragraph (a) of this clause or
- (ii) The furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of the proposal, unless this period is extended by the Government. The statement of proposal for adjustment may be included in the notice under paragraph (b) above.

(g) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under the Contract.

**6.02.04. Errors And Omissions.** Notwithstanding the provision of data supplied by LYNX, the Contractor shall have the responsibility of supplying all details required to make the product or service complete and ready for use although such details may not be specifically mentioned in the specifications. The Contractor shall take no advantage of any apparent error or omission, which he might discover in the plans or specifications, but shall forthwith notify the Contracting Officer of such discovery, who will then make such corrections and interpretations as he deems necessary for reflecting the actual spirit and intent of the plans and specifications.

**6.02.05. Insurance.** The Contractor shall, at all times during the term of the Contract and extended terms thereof, provide and maintain the following types of insurance protecting the interests of LYNX and the Contractor with limits of liability not less than those specified below.

(a) **Worker's Compensation Insurance:** Providing statutory benefits as provided under the Workers' Compensation Act of the State of Florida and/or any other state or Federal law or laws applicable to the Contractor's employees performing Work under the Contract.



(b) **Employers' Liability Insurance:** With limits of liability of not less than \$100,000 each accident, \$100,000 each employee for disease, and \$500,000 policy limit for disease. This insurance must be endorsed with a Waiver of Subrogation Endorsement, waiving the carrier's right of recovery under subrogation or otherwise from LYNX.

(c) **Commercial General Liability:** In the following amounts: Bodily Injury and Property Damage \$100,000 each occurrence/\$300,000 general aggregate; \$100,000 products/completed operations aggregate. There shall not be any policy exclusions or limitations for the following coverages: Contractual Liability covering the Contractor's obligations herein; Personal Injury - Medical Payments; Broad Form - Property Damage; Fire Damage; Legal Liability; Liability for Independent Contractors.

(d) **Comprehensive Automobile Liability:** Insurance covering all owned or hired and non-owned vehicles used concerning the Work performed under the Contract with limits of liability not less than \$100,000 each person and \$300,000 each accident for bodily injury and \$100,000 each occurrence for property damage or a combined single limit for bodily injury and property damage liability of not less than \$500,000.

(e) **Certificates of Insurance:** Before commencing prosecution of the Contract, Contractor shall mail to LYNX Certificates of Insurance satisfactory to LYNX from each insurance company evidencing the insurance as required above is in force, stating policy number(s), dates of expiration and limits of liability thereunder. All copies of policies and Certificates of Insurance submitted to LYNX shall be in form and content acceptable to LYNX.

(f) **Approval of Forms and Companies:** An insurance company or companies satisfactory to the Contracting Officer and licensed to do business in Florida shall write all insurance described in the Contract. Insurance shall be in form and content satisfactory to the Contracting Officer. No party subject to the provisions of the Contract shall violate or knowingly permit to be violated any of the provisions of the policies of insurance described herein. Except as may otherwise specifically be provided herein to the contrary, all policies of insurance which are in any way related to the Work required by the Contract shall be endorsed to LYNX waiving the issuing insurance company's rights of recovery against LYNX whether by way of subrogation or otherwise. All insurance should be provided by insurance companies with a Best's Rating of B+ or better.

(g) **Additional Insured Endorsement:** The policy or policies providing Commercial General Liability, Automobile Liability and as required above shall be endorsed to name LYNX, its officers, directors, employees and assigns as Additional Named Insured as respects operations performed by or on behalf of the Contractor in performance of the Contract.

(h) **Notice of Cancellation or Material Change:** Policies and/or certificates shall specifically provide a thirty- (30) day notice of cancellation, non-renewal, or material change to be sent to LYNX.

(i) **Subcontractors:** If any part of the Work is sublet, the Contractor shall require any and all subcontractors performing Work under the Contract to carry insurance of the type and limits of liability as the Contractor shall deem appropriate and adequate. In the event, a subcontractor is unable to furnish adequate insurance as provided above, the Contractor shall endorse the subcontractor as an Additional Insured. The Contractor shall obtain and furnish to LYNX certificates of insurance evidencing subcontractors' insurance coverage.

(j) **Multiple Policies:** A single policy of insurance or a combination of primary, excess or umbrella liability policies as required above may provide the limits of liability. Nevertheless, in no event shall the total limit of liability for any one occurrence or accident be less than the amount shown above.

(k) **Deductibles:** Companies issuing the insurance policies and the Contractor shall have no recourse against LYNX for payment of any premiums or assessments for any deductibles, as all such premiums and deductibles are the sole responsibility and risk of the Contractor.

#### **6.02.06. Notice Of Labor Disputes.**

(a) If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of the Contract, the Contractor immediately shall give notice, including all relevant information, to the Contracting Officer.

(b) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract under which a labor dispute may delay the timely performance of the Contract, except that each subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute the subcontractor shall immediately notify the next higher tier subcontractor or the Contractor, as the case may be, of all relevant information concerning the dispute.

### **6.03 PROVISIONS APPLICABLE ONLY TO CONTRACTS EXCEEDING TWENTY FIVE THOUSAND DOLLARS**

**6.03.01. Suspension and Debarment.** The Contract is a "covered transaction" for purposes of 49 C.F.R. Part 29. As such, Contractor is required to verify that none of the Contractor, its principals, as defined at 49 C.F.R. 29.995, or affiliates, as defined at 49 C.F.R. 29.905, are excluded or disqualified as defined at 49 C.F.R. 29.940 and 29.945. Contractor is required to comply with 49 C.F.R. 29, Subpart C and must include the requirement to comply with 49 C.F.R. 29, Subpart C in any lower tier covered transaction it enters into. Contractor certifies as follows:

(a) The certification in this clause is a material representation of fact relied upon by LYNX.

(b) If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to LYNX, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(c) The Contractor agrees to comply with the requirements of 49 C.F.R. 29, Subpart C while its offer is valid and throughout the period of any contract that may arise from its offer.

(d) The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

### **6.04 PROVISIONS APPLICABLE ONLY TO CONTRACTS EXCEEDING ONE HUNDRED THOUSAND DOLLARS**

**6.04.01. 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 therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

**6.04.02. Clean Air and Clean Water.** 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. and the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to LYNX and understands and agrees that LYNX will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

**6.04.03. Contract Work Hours and Safety Standards.** The following provisions shall apply with respect to all U.S. federal government financed contracts and subcontracts in excess of \$100,000, involving employment of laborers or mechanics, including watchmen and guards, provided, however, that these provisions shall not apply to contracts for transportation by land, air, or water, or for the transmission of intelligence, or for the purchase of supplies or materials or articles ordinarily available in the open market.

(a) **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.

(b) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (a) 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 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 (a) 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 (a) of this section.

(c) **Withholding for unpaid wages and liquidated damages.** LYNX 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 (b) of this section.

(d) **Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (a) through (d) 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 (a) through (d) of this section.

(e) **Record Keeping Requirements.** The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the Work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this paragraph shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of LYNX and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

**6.04.04. Disputes.** Disputes arising in the performance of the Contract which are not resolved by agreement of the parties shall be decided in writing by the Executive Director of LYNX. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Executive Director. 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 Executive Director shall be binding upon the Contractor and the Contractor shall abide by the decision.

**6.04.05. Lobbying.** Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 C.F.R. 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 LYNX.

**6.04.06. Performance During Dispute.** Unless otherwise directed by LYNX, Contractor shall continue performance under the Contract while matters in dispute are being resolved.

**6.04.07. Rights and Remedies.** Unless the Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between LYNX and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within Orange County, Florida. 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 LYNX 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.

## **6.05 PROVISIONS APPLICABLE ONLY TO CONTRACTS EXCEEDING FIVE HUNDRED THOUSAND DOLLARS**

**6.05.01. Notification of Federal Participation.** Contractor agrees to provide notification to LYNX specifying the amount of Federal assistance intended to be used to finance the acquisition of goods or services (including construction services) having an aggregate value of \$500,000 or more, and to express the amount of that Federal assistance as a percentage of the total cost of the Contract.

## **6.06 PROVISIONS RELATING TO ARCHITECTURAL AND ENGINEERING SERVICES CONTRACTS**

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

**6.06.02. Special Termination Provisions.** LYNX may terminate the Contract in whole or in part, for the convenience of LYNX or because of the failure of the Contractor to fulfill the Contract obligations. LYNX 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 Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing the Contract, whether completed or in process. If the termination is for the convenience of LYNX, the 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, LYNX may complete the Work by Contract or otherwise and the Contractor shall be liable for any additional cost incurred by LYNX. 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 LYNX.

## **6.07 PROVISIONS RELATING TO CONSTRUCTION CONTRACTS**

**6.07.01. Buy America.** The Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Contractor must submit to LYNX a Buy America certification with respect to all FTA-funded contracts, except those subject to a general waiver.

**6.07.02. Cargo Preference - Use of United States-Flag Vessels.** Contractor agrees:

(a) To use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;

(b) To furnish within twenty (20) business days following the date of loading for shipments originating within the United States or within thirty (30) business days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to LYNX (through the Contractor in the case of a subcontractor's bill-of-lading.); and

(c) To include these requirements in all subcontracts issued pursuant to the Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

**6.07.03. Cleaning Up.** The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the Work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of LYNX. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer.

**6.07.04. Continuing The Work.** The Contractor shall carry on the Work and maintain the progress schedule during all disputes or disagreements with LYNX. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as the Contractor and LYNX may otherwise agree in writing. Suspension of the Work by the Contractor during any dispute or disagreement with LYNX shall entitle LYNX to terminate the Contract for cause, except as otherwise provided in the General Provisions. This section supersedes other sections concerning continuing work.

**6.07.05. Cooperation Of Contractor.** The Contractor will be supplied with three (3) copies each of the plans and specifications. Contractor shall have available on the work site at all times one copy each of the plans and specifications. The Contractor, for the cost of reproduction, may obtain additional copies of plans and specifications. The Contractor shall give constant attention to the Work to facilitate the progress thereof, and he shall cooperate with the Project Manager and any inspectors and with other contractors in every way possible. The Project Manager shall allocate the Work and designate the sequence of construction in case of controversy between contractors. The Contractor shall have a competent superintendent on the work site at all, times who is fully authorized as his agent. The superintendent shall be capable of reading and thoroughly understanding the plans and specifications and shall receive and fulfill instructions from the Project Manager or his authorized representative.

**6.07.06. Davis-Bacon and Copeland Anti-Kickback Acts.** With respect to all construction contracts and subcontracts over two thousand dollars (\$2,000) at least partly financed by a loan or grant from the Federal Government, and including contracts for actual construction, alteration and/or repair, including painting and decorating, the following provisions shall apply.

(a) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the Work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 C.F.R. part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 C.F.R. Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (a)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii) (A) The Contracting Officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 C.F.R. 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) With respect to helpers as defined in 29 C.F.R. 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(ii)(B) or (C) of this section, shall be paid to all workers performing Work in the classification under the Contract from the first day on which Work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v) (A) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

- (1) The Work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(v)(B) or (C) of this section, shall be paid to all workers performing Work in the classification under the Contract from the first day on which Work is performed in the classification.

(b) **Withholding.** LYNX 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 the Contractor under the Contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the Work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the Contract, LYNX may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(c) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the Work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the Work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 C.F.R. 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the

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costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The Contractor shall submit weekly for each week in which any Contract Work is performed a copy of all payrolls to LYNX for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 C.F.R. part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 C.F.R. part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 C.F.R. part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of Work performed, as specified in the applicable wage determination incorporated into the Contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (c)(i)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 C.F.R. 5.12.

(d) Apprentices and trainees

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the Work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who



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has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire Work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of Work actually performed. In addition, any apprentice performing Work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the Work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the Work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 C.F.R. 5.16, trainees will not be permitted to work at less than the predetermined rate for the Work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of Work actually performed. In addition, any trainee performing Work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the Work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the Work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 C.F.R. part 30.

(e) **Compliance with Copeland Act requirements.** The Contractor shall comply with the requirements of 29 C.F.R. part 3, which are incorporated by reference in the Contract.

(f) **Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 C.F.R. 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier

subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the Contract clauses in 29 C.F.R. 5.5.

(g) **Contract termination: debarment.** A breach of the Contract clauses in 29 C.F.R. 5.5 may be grounds for termination of the Contract, and for debarment as a Contractor and a subcontractor as provided in 29 C.F.R. 5.12.

(h) **Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 C.F.R. parts 1, 3, and 5 are herein incorporated by reference in the Contract.

(i) **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of the Contract shall not be subject to the general disputes clause of the Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 C.F.R. parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the Contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(j) **Certification of eligibility.**

(i) By entering into the Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government Contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 C.F.R. 5.12(a)(1).

(ii) No part of the Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 C.F.R. 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

#### **6.07.07. Differing Site Conditions.**

(a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of: (1) Subsurface or latent physical conditions at the site which differ materially from those indicated in the Contract; or (2) Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in Work of the character provided for in the Contract. The Contracting Officer shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the Work under the Contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the Contract modified in writing accordingly.

(b) No request by the Contractor for an equitable adjustment to the Contract under this clause shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in paragraph (a) of this clause for giving written notice may be extended by the Contracting Officer. No request by the Contractor for an equitable adjustment to the Contract for differing site conditions shall be allowed if made after final payment under the Contract.

**6.07.08. Layout Of Work.** The Contractor shall lay out its Work from base lines and benchmarks indicated on the drawings, and shall be responsible for all measurements concerning the layout. The Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to lay out any part of the work. The Contractor shall be responsible for executing the Work to the lines and grades that may be established or indicated by the Project Manager. The Contractor shall also be responsible for maintaining and preserving all stakes and other marks established by the Project Manager until authorized to remove them. If such marks are destroyed by the Contractor or through its negligence before their removal is authorized, the Project Manager may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.

**6.07.09. Maintenance During Construction.** The Contractor shall maintain the Work during construction and until the Work is accepted. This maintenance shall constitute continuous and effective Work prosecuted day by day, with

adequate equipment and forces so that the Work is maintained in satisfactory condition at all times. All costs of maintenance Work during construction and before the project is accepted shall be included in the unit prices bid on the various Contract items, and the Contractor will not be paid an additional amount for such work. Should the Contractor at any time fail to maintain the work, the Project Manager shall immediately notify the Contractor of such noncompliance. Such notification shall specify a reasonable time within which the Contractor shall be required to remedy such unsatisfactory maintenance condition. The time specified will give due consideration to the exigency that exists. Should the Contractor fail to respond to the Project Manager's notification, the Project Manager may suspend any Work necessary for LYNX to correct such unsatisfactory maintenance condition, depending on the exigency that exists. Any maintenance cost incurred by LYNX shall be deducted from monies due or to become due the Contractor.

**6.07.10. Occupational Safety and Health ("OSHA").** Contractor agrees to comply with section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. section 333, and applicable Department of Labor regulations, "Safety and Health Regulations for Construction" 29 C.F.R. Part 1926. Among other things, the Contractor agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions.

(a) The Contractor also agrees to include the requirements of this section in each subcontract. The term "subcontract" under this section is considered to refer to a person who agrees to perform any part of the labor or material requirements of a Contract for construction, alteration or repair. A person who undertakes to perform a portion of a Contract involving the furnishing of supplies or materials will be considered a "subcontractor" under this section if the Work in question involves the performance of construction Work and is to be performed:

- (i) directly on or near the construction site, or
- (ii) for the specific project on a customized basis.

Thus, a supplier of materials which will become an integral part of the construction is a "subcontractor" if the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the Work involved may be said to be construction activity. If the goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a "subcontractor" for the purposes of this section. The requirements of this section do not apply to Contracts or subcontracts for the purchase of supplies or materials or articles normally available on the open market.

**6.07.11. Operations And Storage Areas.** (a) The Contractor shall confine all operations (including storage of materials) on LYNX premises to areas authorized or approved by the Project Manager. The Contractor shall hold and save LYNX, its officers, agents, free, and harmless from liability of any nature occasioned by the Contractor's performance.

(b) Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the prior written approval of the Project Manager and shall be built with labor and materials furnished by the Contractor without expense to LYNX. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor upon completion of the work. With the written consent of the Project Manager, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Project Manager, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Project Manager. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

**6.07.12. Protection Of Vegetation, Structures, Equipment & Utilities.** The Contractor shall preserve and protect all existing structures, equipment, and vegetation (such as trees, shrubs, and grass), on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the Work required under the Contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during Contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a

tree-pruning compound as directed by the Project Manager. The Contractor shall protect from damage all existing improvements and utilities at or near the work site, and on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of the Contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Project Manager may have the necessary Work performed and charge the cost to the Contractor.

**6.07.13. Safety.** Contractor agrees to provide appropriate safety barricades, signs, and signal lights; comply with the standards issued by the Secretary of Labor at 29 C.F.R. Part 1926 and 29 C.F.R. Part 1910; and ensure that any additional measures the Contracting Officer determines to be reasonably necessary for the purposes are taken.

**6.07.14. Schedules For Construction Contracts.** (a) The Contractor shall, within five days after the Work commences on the Contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work. The Contractor will supply the dates on which the Contractor contemplates starting and completing the several salient features of the Work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of Work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

(b) The Contractor shall enter the actual progress on the chart as directed by the Contracting Officer, and upon doing so shall immediately deliver three copies of the annotated schedule to the Contracting Officer. If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to LYNX. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause, shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the Work with sufficient diligence to ensure completion within the time specified in the Contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of the Contract.

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

**6.07.16. Special Termination for Default Provisions.** 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 the Contract or any extension or fails to complete the Work within this time, or if the Contractor fails to comply with any other provisions of the Contract, LYNX may terminate the Contract for default. LYNX shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, LYNX may take over the Work and complete 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 LYNX 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 LYNX in completing the work. The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if:

(a) 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 LYNX, acts of another Contractor in the performance of a Contract with LYNX, epidemics, quarantine restrictions, strikes, freight embargoes; and

(b) the Contractor, within ten (10) days from the beginning of any delay, notifies LYNX in writing of the causes of delay. If in the judgment of LYNX, the delay is excusable, the time for completing the Work shall be extended. The judgment of LYNX shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses, if applicable.

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 the Recipient.

**6.07.17. Specifications And Drawings.** (a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Project Manager access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

(b) Wherever in the specifications or upon the drawings the words "directed", "required", "ordered", "designated", "prescribed", or words of like import are used, it shall be understood that the "direction", "requirement", "order", "designation", or "prescription", of the Contracting Officer is intended and similarly, the words "approved", "acceptable", "satisfactory", or words of like import shall mean "Approved by," or "acceptable to", or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.

(c) Where "as shown," "as indicated", "as detailed", or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying the Contract unless stated otherwise. The word "provided" as used herein shall be understood to mean, "provide complete in place," that is "furnished and installed".

(d) "Shop drawings" means drawings, submitted to LYNX by the Contractor, subcontractor, or any lower tier subcontractor pursuant to a construction Contract, showing in detail the proposed fabrication and assembly of structural elements, and the installation (i.e., fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the Contractor to explain in detail specific portions of the Work required by the Contract. LYNX may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under the Contract.

(e) If the Contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with Contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate LYNX's reasons therefor. Any Work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of the Contract, except with respect to variations described and approved in accordance with (f) below.

(f) If shop drawings show variations from the Contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Contracting Officer approves any such variation, the Contracting Officer shall issue an appropriate Contract modification, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.

(g) The Contractor shall submit to the Contracting Officer for approval four (4) copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three (3) sets (unless otherwise indicated) of all shop drawings, will be retained by the Contracting Officer and one set will be returned to the Contractor. Upon completing the Work under the Contract, the Contractor shall furnish a complete set of all shop drawings as finally approved. These drawings shall show all changes and revisions made up to the time the equipment is completed and accepted.

**6.07.18. Suspension Of Work.**

(a) The Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the Work of the Contract for the period of time that the Contracting Officer determines appropriate for the convenience of LYNX.

(b) If the performance of all or any part of the Work is, for an unreasonable period of time, suspended, delayed, or interrupted:

(i) By an act of the Contracting Officer in the administration of the Contract, or

(ii) By the Contracting Officer's failure to act within the time specified in the Contract (or within a reasonable time if not specified),

an adjustment shall be made for any increase in the cost of performance of the Contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the Contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of the Contract.

(c) A claim under this clause shall not be allowed for any costs incurred more than twenty (20) days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved. Nevertheless, this requirement shall not apply as to a claim resulting from a suspension order unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the Contract.

**6.07.19. Use And Possession Prior To Completion.** (a) LYNX shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of Work remaining to be performed or corrected on those portions of the Work that LYNX intends to take possession of or use. However, failure of the Contracting Officer to list any item of Work shall not relieve the Contractor's responsibility for complying with the Contract terms. The Government's possession or use shall not be deemed an acceptance of any Work under the Contract.

(b) While LYNX has such possession or use, the Contractor shall be relieved of the responsibility for the loss of or damage to the Work resulting from LYNX's possession or use. If prior possession or use by LYNX delays the progress of the Work or causes additional expense to the Contractor an equitable adjustment shall be made in the Contract price or the time of completion, and the Contract shall be modified in writing accordingly.

**6.07.20. Utilities.** Contractor shall be responsible for all utilities that are necessary to perform the Work required by the Contract.

**6.08 PROVISIONS RELATING TO INTELLIGENT TRANSPORTATION SYSTEMS PROJECTS**

**6.08.01. Conformance with ITS National Architecture.** With respect to all Contracts involving the provision of Intelligent Transportation Systems ("ITS"), Contractor agrees to conform to the ITS National Architecture, as promulgated by the United States Department of Transportation, Intelligent Transportation Systems, Joint Program Office.

**6.09 PROVISIONS RELATING TO MATERIALS AND SUPPLIES CONTRACTS**

**6.09.01. Buy America.** The Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and

small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Contractor must submit to LYNX a Buy America certification on FTA-funded contracts, except those subject to a general waiver.

**6.09.02. Cargo Preference - Use of United States-Flag Vessels.** Contractor agrees:

(a) To use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;

(b) To furnish within twenty (20) business days following the date of loading for shipments originating within the United States or within thirty (30) business days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to LYNX (through the Contractor in the case of a subcontractor's bill-of-lading.); and

(c) To include these requirements in all subcontracts issued pursuant to the Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

**6.09.03. Certificate Of Conformance.** (a) When authorized in writing by the Contracting Officer, the Contractor shall ship any supplies for which the Contract would otherwise require inspection at source with a Certificate of Conformance certifying that the supplies or services are of the quality specified and conform in all respects with the Contract requirements, including specifications, drawings, preservation, packaging, packing, marking requirements, and physical item identification (part number), and certifying the quantity provided. Shipments of such supplies will not be made under the Contract until use of the Certificate of Conformance has been authorized in writing by the Contracting Officer or inspection and acceptance have occurred.

(b) The executed Certificate of Conformance shall be attached to or included on the top copy of the inspection or receiving report distributed to the payment office. In addition, a copy of the executed Certificate of Conformance shall also be attached to or entered on copies of the inspection or receiving report accompanying the shipment.

(c) LYNX has the right to inspect supplies even though a Certificate of Conformance has been provided and to reject defective supplies or services within a reasonable time after delivery by written notification to the Contractor. The Contractor shall in such event promptly replace, correct, or repair the rejected supplies or services at the Contractor's expense.

**6.10 PROVISIONS RELATING TO OPERATIONS/ MANAGEMENT CONTRACTS**

**6.10.01. Charter Service Operations.** The Contractor agrees to comply with 49 U.S.C. 5323(d) 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 under one of the exceptions at 49 C.F.R. 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation. Contractor agrees to include provisions to this effect in to include these requirements in all subcontracts issued pursuant to the Contract when the subcontract may involve charter service operations.

**6.10.02. Drug and Alcohol Testing.** The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Florida, or LYNX, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. Parts 653 and 654 and review the testing process. The Contractor agrees further to certify annually its compliance with Parts 653 and 654 before October 31st of each year and to submit the Management Information System (MIS) reports before January 1st of each year to LYNX Director of Risk Management, 445 W. Amelia Street, Suite 800, Orlando, FL 32801. To certify compliance the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of

Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

**6.10.03. School Bus Operations.** Contractor agrees to comply with 69 U.S.C. 5323(f) and 49 C.F.R. Part 605, which provide that recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, Contractor agrees not to use federally funded equipment, vehicles, or facilities. Contractor agrees to include provisions to this effect in to include these requirements in all subcontracts issued pursuant to the Contract when the subcontract may involve school bus operations.

**6.10.04. Transit Employee Protective Provisions.** With respect to Contracts for "transit operations" as classified by the FTA, and performed by employees of a Contractor recognized by FTA to be a transit operator, the Contractor agrees to the comply with applicable transit employee protective requirements as follows:

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

(b) **Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities.** If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for LYNX, the Contractor agrees to carry out the Work in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. Department of Labor guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. Department of Labor's letter of certification to FTA, the date of which is set forth in the Grant Agreement or Cooperative Agreement with LYNX. The Contractor agrees to perform transit operations in connection with the underlying Contract in compliance with the conditions stated in that U.S. Department of Labor letter. *Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Non-urbanized Areas.* If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Non-urbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. Department of Labor or any revision thereto.

(c) **Requirements Apply to Subcontracts.** The Contractor agrees to include any applicable requirements in each subcontract involving transit operations financed in whole or in part with assistance provided by FTA.

## 6.11 PROVISIONS RELATING TO RESEARCH AND DEVELOPMENT CONTRACTS

**6.11.01. Patent Rights.** The following requirements apply to each contract involving experimental, developmental, or research work:

(a) **General.** If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the Contract to which this Section applies and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, LYNX and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.



(b) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), LYNX and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(c) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research Work financed in whole or in part with Federal assistance provided by FTA.

**6.11.02. Rights in Data.** The following requirements apply to each Contract involving experimental, developmental or research work:

(a) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(b) The following restrictions apply to all subject data first produced in the performance of the Contract to which this Section applies:

(i) Except for its own internal use, LYNX or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may LYNX or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(ii) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (b)(ii)(A) and (b)(ii)(B) of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

(A) Any subject data developed under that contract, whether or not a copyright has been obtained; and

(B) Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA.

(iii) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the Work to participants in that work. Therefore, unless FTA determines otherwise, LYNX and the Contractor performing experimental, developmental, or research Work required by the underlying Contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying Contract, is not completed for any reason whatsoever, all data developed under that Contract shall become subject data as defined in subsection (i) of this clause and shall be delivered as the Federal Government may direct. This subsection (iii), however, does not apply to adaptations of automatic data

processing equipment or programs for LYNX or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(iv) Unless prohibited by state law, upon request by the Federal Government, LYNX and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by LYNX or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that Contract. Neither LYNX nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

(v) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(vi) Data developed by LYNX or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into Work required by the underlying Contract to which this Section applies is exempt from the requirements of subsections (ii), (iii), and (iv) of this clause, provided that LYNX or Contractor identifies that data in writing at the time of delivery of the Contract work.

(vii) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research Work financed in whole or in part with Federal assistance provided by FTA.

(c) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), LYNX and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(d) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research Work financed in whole or in part with Federal assistance provided by FTA.

## **6.12 PROVISIONS RELATING TO ROLLING STOCK PURCHASE CONTRACTS**

**6.12.01. Bus Testing.** Contractor agrees to comply with 49 U.S.C. 5323(c) and FTA's implementing regulation at 49 C.F.R. Part 665 and shall perform the following:

(a) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to LYNX at a point in the procurement process specified by LYNX, which will be before LYNX's final acceptance of the first vehicle.

(b) A manufacturer who releases a report under paragraph (a) above shall provide notice to the operator of the testing facility that the report is available to the public.

(c) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report. This must be provided to LYNX before LYNX's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.

(d) If the manufacturer represents that the vehicle is "grandfathered" (used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

(e) Contractor shall provide a certification of compliance with FTA bus testing requirements on such form as may be required by LYNX.

**6.12.02. Buy America.** Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content. Contractor agrees to submit to LYNX a Buy America certification on FTA-funded contracts, except those subject to a general waiver.

**6.12.03. Cargo Preference - Use of United States-Flag Vessels.** Contractor agrees:

(a) To use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;

(b) To furnish within twenty (20) business days following the date of loading for shipments originating within the United States or within thirty (30) business days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to LYNX (through the Contractor in the case of a subcontractor's bill-of-lading.); and

(c) To include these requirements in all subcontracts issued pursuant to the Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

**6.12.04. Pre-Award and Post Delivery Audit Requirements.** Contractor agrees to comply with 49 U.S.C. 5323(1) and FTA's implementation regulation at 49 C.F.R. Part 663 and to submit the following certifications:

(a) **Buy America Requirements.** The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with the Buy America requirements. If the Contractor certifies compliance with the Buy America requirements, it shall submit documentation which lists (i) component and subcomponent parts of the rolling stock to be purchased, identified by manufacturer of the parts, their country of origin and costs; and (ii) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

(b) **Solicitation Specification Requirements.** The Contractor shall submit evidence that it will be capable of meeting the bid specifications.

(c) **Federal Motor Vehicle Safety Standards ("FMVSS").** The Contractor shall submit (i) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or (ii) manufacturer's certified statement that the Contracted buses will not be subject to FMVSS regulations.

**6.13 DEFINITIONS.**

Except as otherwise expressly provided, the terms defined in this section have the meanings assigned to them in this section and the words "herein," "hereof," and "hereunder," and similar words refer to the Contract Documents as a whole and not to any particular document.

- (a) "Contract" means the Contract for goods and services between LYNX and the Contractor, of which these General Provisions are incorporated.
- (b) "Contractor" means such party as designated in the Contract.
- (c) "Contract Documents" means, collectively, the Contract for goods and services between LYNX and the Contractor, these General Provisions, the solicitation by LYNX, the response by the Contractor, and all other documents, instruments and agreements ancillary to and contemplated by these documents.
- (d) "Contracting Officer" means such party as designated by LYNX in the Contract.
- (e) "FTA" means the Federal Transit Administration.
- (f) "LYNX" means the Central Florida Regional Transportation Authority d/b/a LYNX, a body politic and corporate, created by Part II, Chapter 343, Florida Statutes.
- (g) "Project Manager" means such party as designated by LYNX in the Contract.
- (h) "Work" means the goods and/or services to be provided pursuant to the Contract.

**EXHIBIT E**  
**BIDDER'S OFFER and GUARANTEES**

By execution below, the Bidder hereby offers to furnish the items as described herein. The Bidder also certifies that it can and shall provide and make available, at a minimum, the items set forth in this solicitation.

<b>BIDDER'S NAME AND ADDRESS</b>		<b>PAYMENT REMITTANCE ADDRESS</b>	
Name:		Name:	
Address:		Address:	
P.O. Box or Suite No.		P.O. Box or Suite No.	
City		City	
State	Zip	State	Zip
<b>Contact Person:</b>			
Telephone No.	Fax No.	E-Mail Address:	
<b>FEDERAL EMPLOYER I.D. NUMBER:</b>		<b>SOCIAL SECURITY NUMBER:</b> (If Federal I.D. is not applicable)	
<b>Payment Terms:</b>		<b>Age of Firm:</b>	
<b>Disadvantaged Business Enterprise:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, certified by which agency?			
<b>Minority Business Category:</b> <input type="checkbox"/> Female <input type="checkbox"/> Hispanic <input type="checkbox"/> Indian/Alaskan Native <input type="checkbox"/> Not Applicable <input type="checkbox"/> Black <input type="checkbox"/> Asian American <input type="checkbox"/> Other			
<b>Annual Gross Receipts:</b> <input type="checkbox"/> less than \$500,000 <input type="checkbox"/> \$500,000 to \$1 million <input type="checkbox"/> \$1 million to \$5 million <input type="checkbox"/> greater than \$5 million			
<b>Bidder's License Type:</b>			
<b>Bidder's License Number:</b>			
<b>License Expiration Date:</b>			
By signing below, Bidder certifies that their Bid shall be valid for not less than 120 days after the due date and time for the receipt of Bids.			
<b>NAME OF BIDDER (Type or Print)</b>		<b>TITLE OF BIDDER</b>	
<b>Signature of Bidder's Authorized Official</b>		<b>(Date Signed)</b>	

**\*\* NOTE: THIS EXHIBIT SHALL BE COMPLETED AND RETURNED WITH YOUR BID\*\***  
**PROVIDE ALL REQUESTED INFORMATION - DO NOT MODIFY FORM**

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**EXHIBIT F**  
**CERTIFICATION REGARDING DEBARMENT**

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The prospective Bidder certifies, by submission of this Bid, that neither it nor its "principals" as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Bidder is required to comply with 49 CFR 29, Subpart C and shall include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its Bid, the Bidder certifies as follows:

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

\_\_\_\_\_  
Signature of Bidder's Authorized Official

\_\_\_\_\_  
Name of Bidder's Authorized Official

\_\_\_\_\_  
Title of Bidder's Authorized Official

\_\_\_\_\_  
Date

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**\*\* NOTE: THIS EXHIBIT MUST BE COMPLETED AND RETURNED WITH YOUR BID\*\***  
**PROVIDE ALL REQUESTED INFORMATION - DO NOT MODIFY FORM**

**EXHIBIT G**  
**CERTIFICATION REGARDING LOBBYING**

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Certification for Contracts, Grants, Loans, and Cooperative Agreements

*(To be submitted with each bid or offer exceeding \$100,000)*

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

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

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

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

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

Signature of Bidder's Authorized Official: \_\_\_\_\_

Name and Title of Bidder's Authorized Official: \_\_\_\_\_

Date: \_\_\_\_\_

---

**\*\* NOTE: THIS EXHIBIT MUST BE COMPLETED AND RETURNED WITH YOUR BID\*\***  
**PROVIDE ALL REQUESTED INFORMATION - DO NOT MODIFY FORM**



**CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY**

**CONTRACT # 18-C10**

**For**

**TITLE: REMANUFACTURED CUMMINS ENGINES FOR TRANSIT FLEET**

**THIS AGREEMENT** (the "**Contract**") is made as of the 26<sup>TH</sup> day of July, 2018 (the "**Effective Date**") by and between:

**CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY d/b/a LYNX** ("**LYNX**"), a body politic and corporate, created by Part III, Chapter 343, Florida Statutes, whose address is 455 North Garland Avenue, Suite 500, Orlando, Florida 32801;

And

, a \_\_\_\_\_ corporation (the "**Contractor**"), with its principal place of business located at \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ and having a Federal Employer Identification Number of 23-2250435.

**WITNESSETH:**

**WHEREAS**, LYNX was created by the above-stated charter to perform functions necessary for the achievement of an integrated, efficient, and well-balanced public transportation system, and to take all steps and actions necessary or convenient for the conduct of its business;

**WHEREAS**, LYNX desires to obtain goods and/or services (collectively, the "**Services**"), according to the requirements in the Invitation For Bid 18-B14 (the "**Solicitation**") and as further described herein;

**WHEREAS**, the Contractor has submitted a response in connection with the Solicitation, which has been selected by LYNX (the "**Response**");

**WHEREAS**, the Contractor represents and warrants to LYNX that it is qualified and duly licensed to furnish the Services in Florida and meet the obligations set forth in the scope of services contained in Exhibit B of the Solicitation which is incorporated herein by this reference (the "**Scope of Services**"), and as hereinafter stated;



**WHEREAS**, the Contractor warrants that the representations made by it in its Response to the Solicitation remain valid, accurate and binding upon it; and

**WHEREAS**, the Contractor desires to render the Services and meet the obligations set forth in the Solicitation, the Response, and the Scope of Services and upon the terms and conditions set forth in the Contract Documents, as defined herein.

**NOW, THEREFORE**, in consideration of the premises herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. **RECITALS.** The Recitals set forth above are incorporated herein by this reference.

2. **DEFINITIONS.** Terms not defined herein shall have the meanings as set forth in the Contract Documents in the order of precedence set forth in **Section 3** hereof. Terms not defined in the Contract Documents shall have the meanings ascribed to such terms in applicable state, local or federal regulations, including but not limited to LYNX's Administrative Rules as the same may be amended and restated from time to time and which are available at [www.golynx.com](http://www.golynx.com) (the "**Administrative Rules**"). If there is a conflict between any defined terms, the reasonable interpretation of said term by LYNX shall govern.

3. **CONTRACT DOCUMENTS.** For the purposes of this Contract, the following documents are collectively referred to herein as the "**Contract Documents**":

- (a) This Contract (inclusive of the Scope of Services) together with all Exhibits hereto;
- (b) The General Provisions Document, as set forth in Exhibit E of the Solicitation (the "**General Provisions**");
- (c) The Solicitation; and
- (d) The Response

The terms of the Contract Documents are incorporated herein by this reference. In the event of conflict between the terms of the Contract Documents, the order of precedence is as set forth above; thus, if there is a conflict between the terms of the Solicitation and the terms of the Response, the terms of the Solicitation shall govern. In addition, to the extent any of the terms of the Response conflict or in the reasonable opinion of LYNX are not relevant to the remaining Contract Documents, then, in that event, the provisions contained in the Response will not be applicable nor a part of the Contract Documents.

Contract Documents shall further include any later amendments or change orders.

4. **FURNISHING OF SERVICES.** The Contractor shall furnish to LYNX the Services in compliance with the Contract Documents.

5. **NOT TO EXCEED AMOUNT.** The Contractor shall not provide Services of an amount that would be greater than \_\_\_\_\_ (\$) (the “**Not To Exceed Amount**”), unless otherwise agreed to in writing by LYNX. The Contractor shall also not be required to provide Services in excess of said amount, except as otherwise provided in the Contract Documents. For the avoidance of doubt, LYNX is not subject to any minimum purchasing requirements.

6. **TERM.**

(a) **Initial Term.** Subject to the further provisions set forth in this **Section 6**, the initial term of this Contract shall be for a period of two (2) years commencing on the Effective Date and ending July 26, 2020.

(b) **Options.** LYNX shall have the option to extend this Contract for two (2) renewal terms of one (1) year each under the terms and conditions set forth in the Contract Documents. Unless otherwise specified to the contrary in the Contract Documents, LYNX may exercise its option with respect to any particular option year by delivering written notice to the Contractor of its intent to exercise the option.

(c) **Termination.** LYNX shall have the right to terminate this Contract at any time, in accordance with the provisions of **Section 12** below.

7. **CONSIDERATION.**

(a) **Payment.** LYNX agrees to pay the Contractor for the Services the amount per unit provided in the Schedule of Fees attached hereto as **Exhibit “A”** and incorporated herein by this reference.

(b) **Maximum Contract Amount.** In any event, the total amount to be paid by LYNX pursuant to this Contract for the Services shall not exceed the Not To Exceed Amount without the further written agreement of LYNX.

(c) **Procedure for Invoicing.** Invoicing for Services must be rendered in accordance with LYNX policies and procedures on a monthly basis, or as otherwise provided in the Contract Documents. The invoice must be sent to Central Florida Regional Transportation Authority, Accounts Payable, 455 North Garland Avenue, Orlando, Florida 32801, or such other address as may be specified by LYNX from time to time. The invoice must contain the following information: (i) invoice number; (ii) purchase order number; (iii) item description; (iv) quantity of item delivered; (v) unit price; (vi) extended price; (vii) contact person and phone number; and (viii) payment remit address.

(d) **Time of Payment by LYNX.** Subject to the terms and conditions provided herein, LYNX will pay undisputed invoices within thirty (30) days after receipt and approval by LYNX of the Contractor’s invoice.

(e) **Additional Information.** LYNX may request additional documentation from the Contractor prior to payment of any invoice or bill from the

Contractor. LYNX may disallow and deduct any cost for which proper documentation is not provided.

(f) **Receipt of Payment by Contractor as Waiver Against LYNX.** The acceptance by the Contractor, its successors, or assigns, of any progress or final payment due pursuant to this Contract, shall constitute a full and complete release of LYNX from any and all claims, demands, or causes of action whatsoever that the Contractor, its successors, or assigns may have against LYNX or in connection with the Services performed hereunder, through the date that the Services are rendered and for which such payment is made.

(g) **Subcontractors.** In the event the Contractor is utilizing any subcontractors for the furnishing of Services (which would only be as permitted in the Contract Documents), then, upon request by LYNX, the Contractor shall further provide to LYNX copies of billings and other invoices which may be received from any such subcontractors and, in addition, the Contractor will obtain releases from time to time in favor of LYNX from any subcontractor(s) for work so performed by that subcontractor. LYNX shall have the right from time to time to directly contact and discuss with the subcontractor any work performed by that subcontractor under the Contract Documents, but LYNX will not have any liability or obligation to said Subcontract to said subcontractor(s).

(h) **Withholding Five Percent (5%) in the Event of Default.** If the Contractor defaults in the performance of any of its obligations under this Contract, LYNX may withhold five percent (5%) of any amounts then owed or that become owed to the Contractor under this Contract (in addition to any retainage); **provided, however,** that this withholding option may only be exercised by LYNX after providing the Contractor with ten (10) days written notice of the Contractor's default and the Contractor has failed to cure such default within said ten (10) days. Any amounts withheld pursuant to this Section will be paid by LYNX to the Contractor within a reasonable time following the date that the Contractor's default has been cured. In the event that the Contractor fails to cure its default prior to the termination or expiration of this Contract, LYNX shall not be obligated to pay the Contractor the withheld amount and LYNX may keep said amount. The withholding option set forth in this Section shall be in addition to any damages and remedies available to LYNX as set forth elsewhere in this Contract or which are otherwise available to LYNX under applicable law. The exercise by LYNX of the withholding option set forth in this Section shall in no way constitute a waiver of LYNX's ability to seek or exercise any other damages or remedies available under this Contract, the other Contract Documents, or otherwise available to it at law or in equity.

## **8. CONTRACTOR'S OBLIGATIONS.**

(a) **Furnishing of Materials and Labor.** The Contractor shall, for the consideration set forth herein, and at its sole cost and expense, as an independent contractor, provide all labor, materials, equipment, tools, supplies and incidentals necessary to perform this Contract in the manner and to the full extent as set forth in the Contract Documents.

(b) **Standard of Care.** The Contractor shall furnish, provide or fulfill its obligations under this Contract in a professional manner to the reasonable satisfaction of the duly authorized representatives of LYNX, who shall have, at all times, full opportunity to monitor

the services performed under this Contract. The Contractor's performance shall be considered acceptable when:

(i) The Contractor's performance has been inspected and approved by LYNX and, if applicable, all punchlist items have been properly corrected to LYNX's satisfaction; and

(ii) The Contractor has delivered to LYNX the Contractor's final affidavit in form acceptable to LYNX (which would incorporate a full and general release to LYNX), if any, as well as a final affidavit and release from any subcontractor; and

(iii) All the other duties and obligations to be performed by the Contractor under the Contract Documents have been satisfactorily met or performed, including the delivery to LYNX of any materials or documentation relating to the Services, including any warranty materials.

(c) **Compliance with Applicable Requirements.** The Contractor shall conform to all applicable governmental requirements and regulations, whether or not such requirements and regulations are specifically set forth in the Contract Documents. The Contractor in this regard understands that LYNX is a public agency which receives both federal and state funding and, if applicable, the Contract Documents and the performance by the Contractor shall be subject to any applicable rules and regulations promulgated by the Federal Transit Administration (FTA) and/or the Florida Department of Transportation (FDOT).

(d) **Payment of Taxes and Fees.** The Contractor shall pay license fees and all sales, consumer, use, and other similar taxes relating to the Contract, and the matters to be performed thereunder. LYNX is exempt from payment of Florida sales and use taxes. LYNX will sign an exemption certificate submitted by the Contractor. The Contractor shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with LYNX, nor is the Contractor authorized to use LYNX's tax exemption number in securing such materials. LYNX reserves the right to "direct buy" any materials to be furnished by the Contractor under the Contract Documents and, if LYNX so submits, then the parties will enter into an appropriate agreement reflecting said direct purchase, the effect of which will be for LYNX to directly purchase those materials, for the contract amount to be reduced by the amount of the purchase price paid by LYNX for said materials, for those materials to be physically acquired and/or delivered to the Contractor, who will install them or deliver them as provided in the Contract Documents, with full warranties regarding those materials as if those materials were purchased from the Contractor. Any bonds furnished by the Contractor will apply to those materials.

(e) **FICA.** The Contractor shall be responsible for payment of its employee(s)' Federal Insurance Contributions Act benefits with respect to this Contract.

(f) **Permits and Approvals.** Unless otherwise expressly set forth in the Contract Documents, the Contractor shall be responsible to secure, at the Contractor's expense, all necessary permits and approvals. The Contractor shall promptly furnish copies of all such permits and approvals to LYNX as and when obtained.

(g) **Tests and Inspections.** The Contractor shall be responsible to coordinate all tests and inspections necessary for the proper execution and timely completion of this Contract.

(h) **Indemnification.** The Contractor understands that in performing the Services hereunder it will be responsible for the consequences of its own actions. Therefore, the Contractor agrees that it will indemnify, defend and hold harmless LYNX as well as LYNX's officers, directors, employees, agents and representatives and each of the heirs, executors, successors, and assigns of each of the foregoing from, against and in respect of all claims, liabilities, obligations, losses, costs, expenses, penalties, fines, and judgments (at equity or at law) and damages whenever arising or accruing (including, without limitation, amounts paid in settlement, costs of investigation, and reasonable attorneys' fees and expenses) arising out of or related to the Contractor's performance of the Services hereunder, including, without limitation, any acts or omissions with respect thereto.

(i) **Insurance.** During the term of this Contract (as well as during all option terms), the Contractor shall procure and maintain, at its sole expense, commercial general liability insurance with a financially responsible insurance carrier in an amount reasonably acceptable to LYNX and, at the request of LYNX, the Contractor shall name LYNX as an additional insured. The requirements set forth in the previous sentence shall be in addition to any other requirement that the Contractor maintain a specified level of insurance as otherwise set forth in the Contract Documents. The Contractor shall provide LYNX with a copy of insurance certificate(s) demonstrating the satisfaction of the requirements set forth herein or as otherwise set forth in the Contract Documents, as and when requested by LYNX.

(j) **Environmental Principles.** To the extent practicable, the Contractor shall assist LYNX in achieving the principles set forth in the LYNX Environmental Policy, a copy of which is available at <http://golynx/EMSpolicyManual.com>.

(k) **Public Funding/Additional Terms or Conditions.** In the event that LYNX obtains funding, in whole or in part, from a public entity (e.g., Federal Transit Administration, Florida Department of Transportation, Department of Homeland Security, etc.) for the Services, there may be additional conditions imposed by said funding agency, including for example, a requirement that the Contractor comply with any rules and regulations promulgated by that funding agency. LYNX has attempted to identify in the Solicitation and this Contract the source of funding available to LYNX as well as any requirements of any such funding agency, but, in any event, the Contractor will be required to comply with any requirements imposed by the funding agency. The Contractor specifically agrees to so comply with said requirements, without any adjustments or increase in the amount to be paid to the Contractor, provided, however, if said requirement is not contained in the Solicitation or this Contract and said requirement is both material and would impose on the Contractor a material burden, then the Contractor would be entitled to submit to LYNX a change order for any additional cost of compliance by the Contractor.

(l) **Additional Information.** The Contractor, at the request of LYNX, shall further provide to LYNX such other information as LYNX may reasonably request from time to time. Further, the Contractor shall at LYNX's request meet and have its employees and

representatives meet with LYNX from time to time, regarding any of the Services to be rendered under the Contract.

**9. NO DISCRIMINATION**

(a) **No Discrimination.** Neither the Contractor nor any of its subcontractors shall discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of 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 LYNX deems appropriate.

**10. PUBLIC RECORDS.** The Contractor will comply with Florida’s public records laws, and will, specifically:

(a) Keep and maintain public records required by LYNX to perform the Services.

(b) Upon request from LYNX’s custodian of public records, provide LYNX with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to LYNX.

(d) Upon completion of the Contract, transfer, at no cost, to LYNX all public records in possession of the Contractor or keep and maintain public records required by LYNX to perform the Services. If the Contractor transfers all public records to LYNX upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to LYNX, upon request from LYNX’s Custodian of Public Records, in a format that is compatible with the information technology systems of LYNX.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE LYNX CUSTODIAN OF PUBLIC RECORDS AT 407-254-6170, PUBLICRECORDS@GOLYNX.COM OR PUBLIC RECORDS CUSTODIAN C/O LYNX 455 NORTH GARLAND AVENUE, ORLANDO, FL 32801.**

**11. LYNX PROPRIETARY INFORMATION.** The Contractor may, by virtue of this Contract, come into possession of certain non-publicly available information relating to LYNX, which information may or may not be proprietary to LYNX (the “**Information**”). In any event, the Contractor agrees that any such Information is solely for the purpose of enabling the Contractor to fulfill its duties and obligations under this Contract, and the Contractor may not

use any such Information for any other purpose whatsoever without the express, written permission of LYNX. By way of illustration and not limitation, any such Information may not be used by the Contractor in submitting a Request for Proposal for any other purpose, whether to LYNX or to any other third party. Upon the expiration or termination of the Contract, the Contractor will return to LYNX any proprietary Information and will not, without LYNX's prior written approval, keep or maintain any copies or transcripts thereof. The Contractor shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of any Information constituting a trade secret that: (a) is made in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney, and made solely for the purpose of reporting or investigation a suspected violation of law; or (b) is made under a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Should the Contractor file a lawsuit against LYNX for retaliation for reporting a suspected violation of law, Contractor may disclose the trade secret to the Contractor's attorney and use the trade secret information in the court proceeding, if the Contractor: (1) files any document containing the trade secret under seal; and (2) does not disclose the trade secret, except pursuant to court order.

## **12. TERMINATION.**

(a) **Default by Contractor.** LYNX may, in its sole and absolute discretion, by written notice of default to the Contractor, terminate all or any part of this Contract if (i) the Contractor fails to perform the Services described herein, within the time specified herein or any extension hereof; or (ii) if the Contractor fails to satisfy any of the other provisions of the Contract, or so fails to make progress as to endanger performance of this Contract in accordance with its terms; and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as LYNX may in its sole discretion authorize in a writing signed by the LYNX Procurement/Contracts Manager) after receipt of notice from LYNX specifying such failure. In the event that LYNX elects to waive its remedies for any breach by the Contractor of any covenant, term or condition of this Contract, such waiver by LYNX shall not limit LYNX's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

(b) **Termination by LYNX for Convenience.** This Contract may be terminated by LYNX in its absolute discretion, in whole or in part, whenever LYNX shall determine that such termination is in its best interest. Any such termination shall be effected by delivery of a notice of termination by LYNX to the Contractor, signed by the LYNX Procurement/Contracts Manager, specifying the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective. The Contractor shall be paid its costs, including contract closeout costs, and profit on Services performed by the Contractor up to the effective date of Contract termination. The Contractor shall promptly submit its claim for final payment to LYNX. Settlement of claims by the Contractor under this **Section 12(b)** shall be in accordance with the provisions set forth in Part 49 of Title 48 - Federal Acquisition Regulations (48 C.F.R. 49), except that wherever the word "Government" appears it shall be deleted and the word "LYNX" shall be substituted in lieu thereof.

(c) **Default by LYNX.** In the event LYNX is in default under this Contract, the Contractor shall first provide written notice to LYNX of said condition alleged by the

Contractor to be a default, and LYNX shall have a reasonable period of time, not to exceed Sixty (60) days, within which to cure said default. During said period, the Contractor shall continue to provide the services to LYNX. In the event LYNX continues to be in default under this Contract upon the expiration of the time period set forth above for curing its default, this Contract may be terminated by the Contractor upon providing a notice of termination to LYNX.

(d) **Remedies for Default by Contractor.** If this Contract is terminated by LYNX for default by the Contractor, LYNX shall, except as otherwise expressly set forth in the Contract Documents, retain any and all remedies available for it against the Contractor, including the remedy set forth in **Section 7(h)**, all of which remedies shall be cumulative. By way of illustration and not limitation, LYNX may proceed to obtain the remaining Services from another third party and thereby recover from the Contractor any “excess costs” incurred by LYNX in so doing.

**13. DISPUTE RESOLUTION.** If there is any controversy or claim arising out of or relating to this Contract, or the breach thereof (collectively, a “**Legal Dispute**”), the parties agree that if the Legal Dispute cannot be resolved informally by LYNX and the Contractor, then the parties shall resolve such dispute in accordance with the following provisions:

(a) **Mediation.** The parties shall first attempt to resolve the Legal Dispute by mediation, which mediation shall follow the practices and procedures as set forth by the Circuit Court of Orange County Florida, subject to the Florida Rules of Appellate Procedure 9.700-9.740 and conducted by a Florida Supreme Court Certified Mediator. Any such mediation shall be held in Orange County, Florida.

(b) **Court of Law.** If the parties fail to resolve the Legal Dispute through mediation, then the Legal Dispute should be resolved in a court of law. Any action, suit, or proceeding arising in conjunction with the Legal Dispute shall be brought exclusively in the Ninth Judicial Circuit of the State of Florida or the United States District Court for the Middle District of Florida, Orlando Division.

(c) **Arbitration.** In lieu of resolving a Legal Dispute in a court of law as described in **Subsection (b)**, the parties may choose to resolve the Legal Dispute by arbitration upon mutual agreement. If the parties agree to resolve the Legal Dispute by arbitration, such arbitration shall be administered by the American Arbitration Association in accordance with its Commercial Arbitration rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Any such arbitration shall be held in Orange County, Florida. Nothing in this **Subsection (c)** is intended to require that the parties submit to arbitration (absent agreement) or to solicit an agreement prior to pursuing resolution in a court of law pursuant to **Subsection (b)**.

Nothing in this **Section 13** shall in any way limit the right of LYNX to terminate this Contract under **Section 12** hereof.

**14. NOTICES.** All notices shall be made to the addresses listed in the preamble to this Contract, unless otherwise provided below:



15. The Contractor's primary point of contact for daily operations of the Services pursuant to this Contract is: \_\_\_\_\_; Telephone: ( ) \_\_\_\_\_ ; Email: \_\_\_\_\_.

16. The Contractor's primary point of contact for legal notice and authority to modify or act under this Contract is \_\_\_\_\_, ; Telephone: ( ) \_\_\_\_\_; Email: \_\_\_\_\_.

(a) The Contractor may appoint other individuals upon written notice to, and approval by, LYNX. The Contractor shall provide written notice to LYNX promptly with respect to any changes to the aforesaid contact information.

(b) As of the date hereof, LYNX designates Ed Flynn (the "**Project Manager**") with respect to the Contractor's performance of this Contract, and who will also serve as the primary point of contact for operational issues. LYNX may change such designation upon written notice to the Contractor.

(c) As of the date hereof, LYNX designates Varun Desai (the "Senior Purchasing Agent") (407) 254-6045; Email: [vdesai@golynx.com](mailto:vdesai@golynx.com) as the primary point of contact for issues pertaining to contractual changes, modifications, and overall Contractor performance. LYNX may change such designation upon written notice to the Contractor.

(d) The Project Manager, Contracts Administrator, and all other officers, employees, executives, agents, and representatives of LYNX have only such authority to act on behalf of and bind LYNX to the extent granted to such individuals by the LYNX Governing Board, and no apparent authority of any such individuals shall be binding upon LYNX. No individual shall have the authority to act pursuant to this Contract or to modify or amend this Contract except in accordance with the LYNX Administrative Rules and such other policies and procedures that may be adopted by LYNX pursuant thereto. No such action, modification or amendment shall be valid or binding upon LYNX, if the authorizing representative of LYNX has exceeded the authority actually granted to such individual by the LYNX Governing Board.

**17. MISCELLANEOUS.**

(a) **Governing Law.** The parties mutually acknowledge and agree that this Contract shall be construed in accordance with the laws of the State of Florida, without regard to the internal law of Florida regarding conflicts of law.

(b) **No Waiver of Sovereign Immunity.** The Contractor is aware and understands that LYNX is entitled to the benefit of sovereign immunity under the laws of the State of Florida. Under the principles of sovereign immunity, LYNX is not permitted to agree to indemnify another party to a contract or alter the state's waiver of sovereign immunity such that its liability for torts is extended beyond the limits established in Section 768.28, Florida Statutes. Nothing contained in this Contract or in any Contract Document shall be interpreted to constitute a waiver by LYNX of its sovereign immunity and, for the avoidance of doubt, no provision of the Contract Documents shall be interpreted to require that LYNX indemnify the Contractor.

(c) **Attorneys' Fees.** Subject to the terms of **Section 17(b)**, if any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default, claim, or misrepresentation arising out of or in connection with any of the provisions of this Contract, the prevailing party or parties shall be entitled to recover its or their reasonable attorneys' fees (including paralegals' fees), court costs, expenses, and costs of experts and investigation, whether at trial, upon appeal, or during investigation by such prevailing party or parties in prosecuting or defending such legal action or other proceeding.

(d) **Waiver Of Jury Trial.** EACH PARTY HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THE CONTRACT DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY EACH PARTY, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE.

(e) **Assignment by Contractor.** LYNX has selected the Contractor to render the Services based in substantial part on the personal qualifications of the Contractor; as such, the Contractor may not assign or transfer any right or obligation of this Contract in whole or in part, without the prior written consent of LYNX, which consent may be granted or withheld in the sole discretion of LYNX. Any direct or indirect change in the ownership (legal or equitable) of a controlling and/or a majority interest of the Contractor, whether such change in ownership occurs at one time or as a result of sequential incremental changes, and whether said change is by sale, assignment, hypothecation, bequest, inheritance, operation of law, merger, consolidation, reorganization, or otherwise, shall be deemed an assignment of this Contract subject to the consent of LYNX. The Contractor may utilize subcontractors as otherwise permitted and provided in the Contract Documents. Any assignment or transfer of any obligation under this Contract without the prior written consent of LYNX shall be void, *ab initio*, and shall not release the Contractor from any liability or obligation under the Contract, or cause any such liability or obligation to be reduced to a secondary liability or obligation.

(f) **ASSIGNMENT TO ADDITIONAL GOVERNMENTAL PURCHASERS.** LYNX MAY UNILATERALLY ASSIGN THE RIGHT TO PURCHASE THE SERVICES UNDER THIS CONTRACT TO ANY STATE, COUNTY, MUNICIPAL, OR LOCAL AGENCY OR OTHER GOVERNMENTAL BODY (COLLECTIVELY, "**ADDITIONAL GOVERNMENTAL PURCHASERS**"). THE CONTRACTOR AGREES TO EXTEND THE PRICES, TERMS, AND CONDITIONS FOR THE PROCUREMENT OF THE SERVICES AS PROVIDED FOR HEREIN TO ANY SUCH ADDITIONAL GOVERNMENTAL PURCHASERS. THIS PROVISION IS INTENDED TO COMPLY WITH THE REQUIREMENTS OF CHAPTER V, SECTION 7(A)(2) OF FTA CIRCULAR 4220.1F AND SHALL BE INTERPRETED CONSISTENT THEREWITH.

(g) **Captions and Headings.** The captions and headings provided herein are for convenience of reference only and are not intended to be used in construing the terms and provisions hereof.

(h) **Number And Gender.** Whenever herein the singular or plural is used the same shall include the other where appropriate. Words of any gender shall include other genders when the context so permits.

(i) **Multiple Counterparts.** This Contract may be executed in a number of identical counterparts each of which is an original and all of which constitute collectively one agreement. In making proof of this Contract in any legal action, it shall not be necessary to produce or account for more than one such counterpart.

(j) **Survival.** Should any provision of this Contract be determined to be illegal or in conflict with any law of the State of Florida, the validity of the remaining provisions shall not be impaired.

(k) **No Third-Party Beneficiary.** It is specifically agreed that this Contract is not intended by any of the provisions of any part of this Contract to establish in favor of any other party, the public or any member thereof, the rights of a third-party beneficiary hereunder, or to create or authorize any private right of action by any person or entity not a signatory to this Contract to enforce this Contract or any rights or liabilities arising out of the terms of this Contract.

**18. AMENDMENT OF CONTRACT.** This Contract may not be modified or amended without the prior written consent of the party to be charged by said amendment or modification. This provision may not itself be changed orally. The Contractor specifically is aware and understands that any material or substantial change to this Contract may require approval of LYNX's Governing Board for any such change to be valid.

**19. ENTIRE CONTRACT.** This Contract, including the Contract Documents referenced above, together with any Exhibits or attachments hereto constitutes the entire agreement between the parties.

**20. LYNX APPROVAL.** This Contract shall be effective upon its approval by the LYNX Governing Board.

**[SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, the authorized signatories named below have executed this Contract on behalf of the parties as of the Effective Date.

**“CONTRACTOR”**

**“LYNX”**

\_\_\_\_\_

**CENTRAL FLORIDA REGIONAL  
TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_

Name

Title:

By: \_\_\_\_\_

Name: Edward Johnson

Title: Chief Executive Officer

Date: \_\_\_\_\_

Date:

**Reviewed as to Form:**

This Contract has been reviewed as to form by LYNX General Counsel. This confirmation is not to be relied upon by any person other than LYNX or for any other purpose.

**AKERMAN LLP**

By: \_\_\_\_\_

Name: James Goldsmith

Title: Partner

Date: \_\_\_\_\_

Exhibit "A"  
**SCHEDULE OF FEES**

**FY 2018 – REPLACEMENT PLAN**

<b>EXHIBIT K - PRICING SCHEDULE</b>											
<b>Remanufactured Engines - Transit Buses</b>											
<b>R O W</b>	<b>Engine Service Model Name</b>	<b>Engine Component ID</b>	<b>Bus Make</b>	<b>Model Year</b>	<b>Fuel Type</b>	<b>Bus ID</b>	<b>Current Engine Serial Number</b>	<b>Qty.</b>	<b>Unit Price</b>	<b>Extended Price</b>	<b>Comment</b>
1	CUMMINS ISL9 CM2250	EN475-107-412	GILLIG	2012	Diesel	107-412	73442768	1			
2	CUMMINS ISL9 CM2250	EN476-108-412	GILLIG	2012	Diesel	108-412	73442762	1			
3	CUMMINS ISL9 CM2250	EN477-109-412	GILLIG	2012	Diesel	109-412	73442798	1			
4	CUMMINS ISL9 CM2250	EN478-110-412	GILLIG	2012	Diesel	110-412	73442789	1			
5	CUMMINS ISL9 CM2250	EN479-111-412	GILLIG	2012	Diesel	111-412	73442759	1			
6	CUMMINS ISL9 CM2250	EN480-112-412	GILLIG	2012	Diesel	112-412	73442755	1			
7	CUMMINS ISL9 CM2250	EN481-113-412	GILLIG	2012	Diesel	113-412	73442774	1			
8	CUMMINS ISL9 CM2250	EN482-114-412	GILLIG	2012	Diesel	114-412	73437901	1			
9	CUMMINS ISL9 CM2250	EN484-116-412	GILLIG	2012	Diesel	116-412	73437894	1			
10	CUMMINS ISL9 CM2250	EN485-117-412	GILLIG	2012	Diesel	117-412	73437898	1			

Total Price FY 2018	\$0.00
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**FY 2019 – REPLACEMENT PLAN**

<b>EXHIBIT K - PRICING SCHEDULE</b>											
<b>Remanufactured Engines - Transit Buses</b>											
<b>R O W</b>	<b>Engine Service Model Name</b>	<b>Engine Component ID</b>	<b>Bus Make</b>	<b>Model Year</b>	<b>Fuel Type</b>	<b>Bus ID</b>	<b>Current Engine Serial Number</b>	<b>Qty.</b>	<b>Unit Price</b>	<b>Extended Price</b>	<b>Comment</b>
1	CUMMINS ISL9 CM2350 L101	EN486-118-413	GILLIG	2013	Diesel	118-413	73539626	1			
2	CUMMINS ISL9 CM2350 L101	EN487-119-413	GILLIG	2013	Diesel	119-413	73524313	1			
3	CUMMINS ISL9 CM2350 L101	EN488-120-413	GILLIG	2013	Diesel	120-413	73539629	1			
4	CUMMINS ISL9 CM2350 L101	EN489-121-413	GILLIG	2013	Diesel	121-413	73539624	1			
5	CUMMINS ISL9 CM2350 L101	EN490-122-413	GILLIG	2013	Diesel	122-413	73539625	1			
6	CUMMINS ISL9 CM2350 L101	EN491-123-413	GILLIG	2013	Diesel	123-413	73544532	1			
7	CUMMINS ISL9 CM2350 L101	EN492-124-413	GILLIG	2013	Diesel	124-413	73533693	1			
8	CUMMINS ISL9 CM2350 L101	EN493-125-413	GILLIG	2013	Diesel	125-413	73546867	1			
9	CUMMINS ISL9 CM2350 L101	EN494-126-413	GILLIG	2013	Diesel	126-413	73537900	1			
10	CUMMINS ISL9 CM2350 L101	EN495-127-413	GILLIG	2013	Diesel	127-413	73541468	1			
11	CUMMINS ISL9 CM2350 L101	EN496-128-413	GILLIG	2013	Diesel	128-413	73539628	1			

Total Price FY 2019	\$0.00
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**FY 2020 – REPLACEMENT PLAN**

<b>EXHIBIT K - PRICING SCHEDULE</b>											
<b>Remanufactured Engines - Transit Buses</b>											
<b>R O W</b>	<b>Engine Service Model Name</b>	<b>Engine Component ID</b>	<b>Bus Make</b>	<b>Model Year</b>	<b>Fuel Type</b>	<b>Bus ID</b>	<b>Current Engine Serial Number</b>	<b>Qty.</b>	<b>Unit Price</b>	<b>Extended Price</b>	<b>Comment</b>
1	CUMMINS ISL9 CM2350 L101	EN511-148-414	GILLIG	2014	Diesel	148-414	73624648	1			
2	CUMMINS ISL9 CM2350 L101	EN512-149-414	GILLIG	2014	Diesel	149-414	73622573	1			
3	CUMMINS ISL9 CM2350 L101	EN513-150-414	GILLIG	2014	Diesel	150-414	73622525	1			
4	CUMMINS ISL9 CM2350 L101	EN514-151-414	GILLIG	2014	Diesel	151-414	73622576	1			
5	CUMMINS ISL9 CM2350 L101	EN515-152-414	GILLIG	2014	Diesel	152-414	73622570	1			
6	CUMMINS ISL9 CM2350 L101	EN516-153-414	GILLIG	2014	Diesel	153-414	73622540	1			
7	CUMMINS ISL9 CM2350 L101	EN517-154-414	GILLIG	2014	Diesel	154-414	73622510	1			
8	CUMMINS ISL9 CM2350 L101	EN527-164-414	GILLIG	2014	Diesel	164-414	73644999	1			
9	CUMMINS ISL9 CM2350 L101	EN528-165-414	GILLIG	2014	Diesel	165-414	73637840	1			
10	CUMMINS ISL9 CM2350 L101	EN529-166-414	GILLIG	2014	Diesel	166-414	73637846	1			
11	CUMMINS ISL9 CM2350 L101	EN530-167-414	GILLIG	2014	Diesel	167-414	73637820	1			
12	CUMMINS ISL9 CM2350 L101	EN531-168-414	GILLIG	2014	Diesel	168-414	73637410	1			

Total Price FY 2020	\$0.00
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**FY 2021– REPLACEMENT PLAN**

**EXHIBIT K - PRICING SCHEDULE  
Remanufactured Engines - Transit Buses**

R O W	Engine Service Model Name	Engine Component ID	Bus Make	Model Year	Fuel Type	Bus ID	Current Engine Serial Number	Qty.	Unit Price	Extended Price	Comment
1	CUMMINS ISL9 CM2350 L101	EN534-170-415	GILLIG	2015	Diesel	170-415	73764450	1			
2	CUMMINS ISL9 CM2350 L101	EN535-171-415	GILLIG	2015	Diesel	171-415	73775656	1			
3	CUMMINS ISL9 CM2350 L101	EN536-172-415	GILLIG	2015	Diesel	172-415	73775651	1			
4	CUMMINS ISL9 CM2350 L101	EN537-173-415	GILLIG	2015	Diesel	173-415	73775648	1			
5	CUMMINS ISL9 CM2350 L101	EN538-174-415	GILLIG	2015	Diesel	174-415	73778535	1			
6	CUMMINS ISL9 CM2350 L101	EN539-175-415	GILLIG	2015	Diesel	175-415	73772317	1			
7	CUMMINS ISL9 CM2350 L101	EN540-176-415	GILLIG	2015	Diesel	176-415	73772287	1			
8	CUMMINS ISL9 CM2350 L101	EN541-177-415	GILLIG	2015	Diesel	177-415	73778849	1			
9	CUMMINS ISL9 CM2350 L101	EN542-178-415	GILLIG	2015	Diesel	178-415	73772282	1			
10	CUMMINS ISL9 CM2350 L101	EN543-179-415	GILLIG	2015	Diesel	179-415	73764468	1			
11	CUMMINS ISL9 CM2350 L101	EN544-180-415	GILLIG	2015	Diesel	180-415	73778461	1			
12	CUMMINS ISL9 CM2350 L101	EN545-181-415	GILLIG	2015	Diesel	181-415	73782069	1			
13	CUMMINS ISL9 CM2350 L101	EN546-182-415	GILLIG	2015	Diesel	182-415	7378740	1			
14	CUMMINS ISL9 CM2350 L101	EN547-183-415	GILLIG	2015	Diesel	183-415	73772299	1			
15	CUMMINS ISL9 CM2350 L101	EN548-184-415	GILLIG	2015	Diesel	184-415	73783362	1			
16	CUMMINS ISL9 CM2350 L101	EN549-185-415	GILLIG	2015	Diesel	185-415	73783361	1			
17	CUMMINS ISL9 CM2350 L101	EN550-186-415	GILLIG	2015	Diesel	186-415	73783364	1			
18	CUMMINS ISL9 CM2350 L101	EN551-187-415	GILLIG	2015	Diesel	187-415	73767451	1			
19	CUMMINS ISL9 CM2350 L101	EN552-188-415	GILLIG	2015	Diesel	188-415	73775765	1			

Total Price FY 2021	\$0.00
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**FY 2022– REPLACEMENT PLAN**

<b>EXHIBIT K - PRICING SCHEDULE</b>											
<b>Remanufactured Engines - Transit Buses</b>											
<b>R O W</b>	<b>Engine Service Model Name</b>	<b>Engine Component ID</b>	<b>Bus Make</b>	<b>Model Year</b>	<b>Fuel Type</b>	<b>Bus ID</b>	<b>Current Engine Serial Number</b>	<b>Qty.</b>	<b>Unit Price</b>	<b>Extended Price</b>	<b>Comment</b>
1	CUMMINS ISL G CM2180	EN560-191-415	GILLIG	2015	CNG	191-415	73872199	1			
2	CUMMINS ISL G CM2180	EN561-192-415	GILLIG	2015	CNG	192-415	73868813	1			
3	CUMMINS ISL G CM2180	EN562-193-415	GILLIG	2015	CNG	193-415	73868798	1			
4	CUMMINS ISL G CM2180	EN563-194-415	GILLIG	2015	CNG	194-415	73878566	1			
5	CUMMINS ISL G CM2180	EN564-195-415	GILLIG	2015	CNG	195-415	73872206	1			
6	CUMMINS ISL G CM2180	EN565-196-415	GILLIG	2015	CNG	196-415	73890705	1			
7	CUMMINS ISL G CM2180	EN566-197-415	GILLIG	2015	CNG	197-415	73896331	1			
8	CUMMINS ISL G CM2180	EN567-198-415	GILLIG	2015	CNG	198-415	73893048	1			
9	CUMMINS ISL G CM2180	EN568-199-415	GILLIG	2015	CNG	199-415	73896350	1			
10	CUMMINS ISL G CM2180	EN569-200-415	GILLIG	2015	CNG	200-415	73890713	1			
11	CUMMINS ISL G CM2180	EN570-201-415	GILLIG	2015	CNG	201-415	73899314	1			
12	CUMMINS ISL G CM2180	EN571-202-415	GILLIG	2015	CNG	202-415	73899636	1			
13	CUMMINS ISL G CM2180	EN572-203-415	GILLIG	2015	CNG	203-415	73899647	1			
14	CUMMINS ISL G CM2180	EN573-204-415	GILLIG	2015	CNG	204-415	73893514	1			
15	CUMMINS ISL G CM2180	EN574-205-415	GILLIG	2015	CNG	205-415	73893542	1			

Total Price FY 2022	\$0.00
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**EXHIBIT "L" REFERENCES AND LICENSING for \_\_\_\_\_**  
**(Indicate Bidder Company Name Above)**

**Please print LEGIBLY. Before adding information below be certain the information given to us is CURRENT and CORRECT. If we CANNOT verify your references this Proposal may be considered Unresponsive for this Procurement.**

Name of Company/Firm	Contact/Reference Name	Contract Amount	Phone	E-Mail

Reference List shall include the names of at least three (3) government or commercial customers who are current customers or have been served by your company within the last five (5) years beginning with contracts most similar in scope and bidder anticipated contract amount.

**BIDDER CERTIFICATION AND/OR LICENSE**

Certifying or Licensing Agency	Description of License or Certification	License or Cert. Number or ID

If a License or Licenses are required to perform the scope of work (including business licenses), or are otherwise requested in the solicitation documents, provide above (Attach additional sheets as necessary).

**THIS EXHIBIT SHALL BE COMPLETED AND RETURNED WITH YOUR BID  
PROVIDE ALL REQUESTED INFORMATION - DO NOT MODIFY FORMAT**

**EXHIBIT "M" – NON-COLLUSION AFFADAVIT**

Contract Description:

By submission of this Bid, the Bidder \_\_\_\_\_, certifies  
Name of Offeror  
that (s)he is \_\_\_\_\_ of \_\_\_\_\_ and,  
Title Name of Firm  
under penalty of perjury, affirms:

1. The prices in this Bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Offeror or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this Bid have not been knowingly disclosed by the Bidder and shall not knowingly be disclosed by the Offeror prior to opening, directly or indirectly, to any other Offeror or to any competitor; and
3. No attempt has been made or shall be made by the Bidder to induce any other person, partnership or corporation to submit or not submit a Bid for the purpose of restricting competition.
4. The Bid was not made in the interest of or on behalf of any undisclosed person, partnership, company, organization or corporation.
5. Each person signing the Bid certifies that:
  - a. He/She is the person in the Bidder's organization responsible within that organization for the decision as to prices being offered in the Bid and that he/she has not participated and shall not participate in any action contrary to (1-4] above; or
  - b. He/She is not the person in the Bidder's organization responsible within that organization for the decision as to prices being offered in the Bid but that he/she has been authorized in writing to act as agent for the persons responsible for such decisions in certifying that such persons have not participated, and shall not participate, in any action contrary to (1-4) above, and that as their agent, does hereby so certify; and that he has not participated, and shall not participate in any action contrary to (1- 4) above.

**THIS EXHIBIT SHALL BE COMPLETED AND RETURNED WITH YOUR BID  
PROVIDE ALL REQUESTED INFORMATION - DO NOT MODIFY FORMAT**

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**EXHIBIT N**  
**No-Bid Form**

If for any reason, your business is not submitting a Bid on this solicitation, please check one or more reasons below and return to the LYNX staff contact listed on the Bid Cover Page to help LYNX develop future bid packages which shall elicit your response to our solicitation.

We hereby submit a "No Bid" because:

- 1. We are not interested in selling through the Bid process.
- 2. We are unable to prepare the bid form in time to meet the due date.
- 3. We do not wish to bid under the terms and conditions of the request for Bid document. **OBJECTIONS:**

- 4. We do not feel we can be competitive.
- 5. We cannot submit a bid because of the marketing or franchising policies of the manufacturing company.
- 6. We do not wish to sell to a State agency.

**OBJECTIONS:**

- 7. We do not sell the items on which bids are requested.
- 8. Other:

**FUTURE SOLICITATIONS**

- We wish to remain on the list of Bidders
- Be deleted from Bidder's List

Firm \_\_\_\_\_

Signed \_\_\_\_\_

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**THIS EXHIBIT SHALL BE COMPLETED AND RETURNED ONLY.**  
**PLEASE PROVIDE ALL REQUESTED INFORMATION - DO NOT MODIFY FORMAT**

**Exhibit O**  
**E-Verify Affidavit Certification**

This Affidavit is required and should be signed, notarized by an authorized principal of the Bidder and submitted with formal Invitation to Bid (ITB) submittals. Further, Bidders are required to enroll in the E-Verify program, and provide acceptable evidence of their enrollment, at the time of the submission of the Bidder's bid. Acceptable evidence consists of a copy of the properly completed E-Verify Company Profile page or a copy of the fully executed E-Verify Memorandum of Understanding for the company. Failure to include this Affidavit and acceptable evidence of enrollment in the E-Verify program may deem the Bidder's bid as nonresponsive. LYNX will not intentionally award Authority's contracts to any Bidder who knowingly employs unauthorized alien workers, constituting a violation of the employment provision contained in 8 U.S.C. Section 1324 a(e) Section 274A(e) of the Immigration and Nationality Act ("INA"). LYNX may consider the employment by any Bidder of unauthorized aliens a violation of Section 274A (e) of the INA. Such Violation by the recipient of the Employment Provisions contained in Section 274A (e) of the INA shall be grounds for unilateral termination of the contract by LYNX. Bidder attests that they are fully compliant with all applicable immigration laws (specifically to the 1986 Immigration Act and subsequent Amendment(s)) and agrees to comply with the provisions of the Memorandum of Understanding with E-Verify and to provide proof of enrollment in the Employment Eligibility Verification System (E-Verify), operated by the Department of Homeland Security in partnership with the Social Security Administration at the time of submission of the Bidder's bid.

Company Name \_\_\_\_\_

Authorized Person's Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

The foregoing instrument was signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by

\_\_\_\_\_ who has produced \_\_\_\_\_ as  
identification. (Print or Type Name) (Type of Identification and Number)

\_\_\_\_\_ Notary Public Signature

\_\_\_\_\_ Printed Name of Notary Public

\_\_\_\_\_ Notary Commission Number/Expiration

The signee of this affidavit guarantees, as evidenced by the sworn affidavit required herein, the truth and accuracy of this affidavit to interrogatories hereinafter made