

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



**455 N. Garland Avenue
Orlando, FL 32801**

REQUEST FOR PROPOSAL COVER PAGE

1. SOLICITATION No: 18-R14		2. ISSUE DATE: March 15, 2018			
3. FOR INFORMATION CONTACT NAME: Anthony Jackson, Sr. Purchasing Agent E-MAIL: ajackson@golynx.com		PHONE: 407- 254 - 6226			
4. BRIEF DESCRIPTION: Transportation Network Company Alternative Transportation for Paratransit Services					
5. PRE-PROPOSAL CONFERENCE DATE AND TIME: March 26, 2018 – 2:00 P.M. EST					
5a. LOCATION: LYNX CENTRAL STATION, 455 N. GARLAND AVE., 2 ND FLOOR, ORLANDO, FL 32801 PARKING: 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 to get it validated.					
6. DEADLINE FOR SUBMISSION OF QUESTIONS/CLARIFICATIONS: April 6, 2018 2:00 P.M. EST					
7. SUBMIT PROPOSAL TO THE FOLLOWING ADDRESS Central Florida Regional Transportation Authority (LYNX) Attn: Anthony Jackson, Sr. Purchasing Agent 455 N. Garland Ave Orlando, FL 32801		8. PROPOSAL SUBMISSION DUE DATE AND TIME April 16, 2018 2:00 P.M. EST			
9. SUBMIT ONE (1) ORIGINAL PROPOSER AND NINE (9) COPIES. YOU MUST SUBMIT 1 ELECTRONIC PROPOSAL ON USB FLASH DRIVE.					
10. OFFERS WILL NOT BE PUBLICLY OPENED.					
11. FIRM OFFER PERIOD: Offers shall remain firm for a period of 120 calendar days from the date specified in Block 8, above or as amended.					
12. If this Proposal is accepted within the period specified in Block 11, above, the Offeror agrees to fully provide the goods and/or services covered by this solicitation at the prices and timelines specified in the solicitation.					
13. The following Exhibits, with an X indicated, are included in this solicitation, Exhibits with an R indicated are included in this solicitation and must be return with your Proposal.					
X	EXHIBIT A – Solicitation Instructions and Conditions	X	EXHIBIT B – Scope of Work	X	EXHIBIT C – Proposal Evaluation Criteria
X	EXHIBIT D – Terms and Conditions	X	EXHIBIT E – LYNX General Provisions	R	EXHIBIT F – Proposer’s Offer & Guarantees
R	EXHIBIT G – Certification Regarding Debarment	R	EXHIBIT H – Certification Regarding Lobbying	R	EXHIBIT I – Disadvantage Business Enterprise
X	EXHIBIT J – Pricing Sheet	X	EXHIBIT K – Sample Contract		
14. DBE: There is no DBE (Disadvantaged Business Enterprise) goal established for this procurement.					

EXHIBIT A

SOLICITATION INSTRUCTIONS and CONDITIONS

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 area 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 approximately 2,500 square miles with a resident population of 1.5 million people. Fixed route bus service operates from 4:15 AM to 3:05 AM each weekday and provides more than 22.5 million unlinked passenger trips each year.

A five 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.

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.

2. **Knowledge of Conditions**

Any person (“Proposer”) submitting a proposal (“Proposal”) in response to this Request for Proposal (“RFP”) must 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 RFP (the “Contract”). No allowances will be made because of lack of knowledge of any specifications, conditions or requirements of this RFP.

3. **Omission**

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

4. **Legal Representation**

Akerman Senterfitt (“Akerman”) is legal counsel to LYNX in connection with this RFP and the Contract to be entered into hereunder. In the event that Akerman has provided legal services to a Proposer submitting a Proposal, a conflict of interest may be created. By submitting a Proposal, each Proposer 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**

All questions pertaining to this RFP, or any matters relating thereto the Scope of Work, or any questions pertaining to the RFP or Proposal documents, must be in writing and must be sent only to the person identified in Block 3 of the RFP 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 will 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-proposal**

See Block 5 of the RFP cover page for whether a pre-proposal meeting (at which questions may be directed to and answered by LYNX personnel) will be held in connection with this RFP and, if so, the date and time of such meeting.

A Pre-Proposal meeting will be on the second floor of the LYNX Central Station, located at 455 North Garland Avenue, Orlando, Florida 32801 (intersection of Amelia Street and N. Garland. Attendance will not mandatory in order to submit a Proposal, however, it is recommended. Only written responses by LYNX in writing may be relied

upon; oral responses will not be considered a part of the RFP or binding on LYNX. Thus, statements made by LYNX at the pre-proposal meeting may not be relied upon in any way by any person and may not be the basis of any protest. Proposers are cautioned to independently verify any matters stated at the pre-proposal meeting. Again, only statements which are made by LYNX in writing may be relied upon.

7. Requests for Clarification/Questions

All questions from any Proposer regarding the RFP or matters relating thereto must be submitted to LYNX in writing no later than date specified in Block 6 of the RFP cover page. Each question must identify the section number in this RFP for which clarification is being requested. LYNX will respond to all properly submitted questions at least five (5) business days prior to the date that Proposals are due. All responses will be sent via email to all persons who have requested a copy of this RFP and furnished LYNX with a correct email address. All such questions must be sent to the contact person listed in Block 3 of the Proposal cover page.

8. Nonsolicitation of LYNX During Blackout Period

During the period from the date of this RFP, through the period that the LYNX Board of Directors approves the award of Contract (including any period during which a procurement protest (“Protest”) has been filed and is pending), Proposers may not directly or indirectly contact any LYNX Board member, any LYNX employee, or LYNX’s legal counsel regarding this RFP 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 17. Any prohibited contact may result in the immediate disqualification of the Proposer from consideration for the award of the Contract and the rejection of any Protest.

9. Proposal Preparation

Each Proposal shall be made only on this RFP. Each Proposal must be enclosed in a sealed envelope with the name and address of the Proposer clearly stated. The outside of the envelope shall state the RFP number, title and due date. All blank spaces in the offer must be filled in and no changes shall be made in the wording.

As consideration for any Proposer’s Proposal being considered by LYNX in its award of the Contract, each Proposer hereby agrees that (1) the Proposal shall be on such form as LYNX provides and shall be sealed; and (2) any revocation or modification of the Proposal shall only be on the same form(s) and submitted in the same manner as the original Proposal was submitted prior to the date on which the Proposals are due.

10. Submission of Proposals

The Proposer must submit to LYNX one original and **5** copies of its Proposal, which must be received by LYNX no later than the date and time specified in Block 8 of the RFP cover page. The envelope containing the Proposal must be marked with the RFP number and title as set forth on the cover page of this RFP.

Proposals may be hand delivered, mailed or sent via a reputable national courier (such as UPS or Fed-Ex). All Proposals must be delivered to the following address:

Central Florida Regional Transportation Authority d/b/a LYNX
Attn: Anthony Jackson, Sr. Purchasing Agent
455 North Garland Avenue
Orlando, Florida 32801-1518

All Proposals **must be received** by LYNX by the date and time set forth in Block 8 of the Proposal Cover Page. For example, a postmark date on a mailed Proposal will not be considered as being “received”.

If a Proposal is hand delivered, it must be delivered to the security guard on the first floor at the above address. In such an event, the Proposer or its agent should request a verification receipt to prove that the submission of its Proposal was timely.

Any Proposal not timely received will be rejected.

11. Late Proposals

Any Proposal received at the office designated in this RFP after the exact time specified for receipt will not be considered.

12. Proposal Modification or Withdrawal

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

13. Validity/Term of Proposals

Proposals will be valid for not less than 120 days after the due date and time for the receipt of Proposals. In the event of a Protest, the 120 day period will be extended and the Proposals will remain valid for a period of 90 days after the earlier of (i) the resolution of the Protest, or (ii) the recommendation of the LYNX Source Evaluation Committee and the posting of said award (see below), and no further Protest.

14. Revisions and Amendments to the Proposal

LYNX reserves the right in its absolute discretion to revise or amend this RFP, including the scope of work, up to the time set for receipt of the Proposals. Any such revision or amendment, if any, will be sent via email to all Proposers who have requested a copy of this RFP and furnished LYNX with their correct email address. In the event that this RFP is revised or amended within five (5) business days of the date set for opening Proposals, LYNX may extend the RFP opening date for up to an additional five (5) business days. The form transmitting the revision or amendment must be signed by the Proposer, acknowledging its receipt, and copy of the signed document must be included in the Proposal documents. **Failure to (i) sign the form transmitting the revision or amendment and (ii) include the signed form in the Proposal may, in LYNX sole and absolute discretion, result in the rejection of the Proposal.**

15. Proposal Rejection

LYNX may at any time reject any (i) Proposal which LYNX deems in its sole and absolute discretion to be incomplete, (ii) Proposal which LYNX deems in its sole and absolute discretion fails to conform to the requirements of this RFP, or (iii) Proposal 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 Proposal, which LYNX determines in its sole and absolute discretion, to be minor, or (b) reject all Proposals and re-solicit the procurement.

16. Proposal Format

The Proposal shall contain a cover letter signed by a person authorized to bind the Proposer (i) agreeing that the Proposal shall remain valid for not less than 120 days (as extended in the event of a Protest) and (ii) providing a name, physical address, and email address of such person who is administering the Proposal, who has authority to bind the Proposer and to whom LYNX may submit notices and writings regarding this RFP. It is to this person and at this email address that LYNX will provide notices and other matters regarding this RFP.

Proposals shall be organized as follows:

Section 1	Introduction of Firm, Company Qualifications, Staff Qualifications
Section 2	List of company vehicles, locations, maintenance facilities, etc.
Section 3	Methodology/Approach to Providing Services
Section 4	Number of drivers, training programs, hiring and retention of employees
Section 5	Financial Capability Statement
Section 6	List of current customers similar in size and requirements of LYNX
Section 7	Billing and Reporting System
Section 8	Required Submittals (Forms and Exhibits)

17. Protest Procedures

In the event any person wishes to file a Protest regarding this RFP, such Protest shall be made in accordance with LYNX Administrative Rule 6 (which is available at 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 17, LYNX in its discretion will determine which provision governs.

By way of background, all Proposers understand and agree that the procurement process undertaken by virtue of this RFP is solely for the benefit of LYNX, and it is for LYNX to determine in its discretion which Proposal LYNX desires to accept. LYNX has provided for a protest procedure not to grant any rights to any particular Proposer but, rather, to provide LYNX the opportunity to review and examine any information regarding any Proposal which it may not have fully evaluated. Thus, no Proposer 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 Proposer may appeal the rejection as set forth in LYNX Administrative Rule 6 or herein but, again, said appeal will 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 Proposal, 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 will 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 Proposal.

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 must meet strict time limitations for filing. Reference is made to LYNX Administrative Rule 6 for these and other matters relating to any Protest.

18. Award

LYNX will award the Contract to the Proposer who submits a Proposal that LYNX determines, in its sole and absolute discretion, is most advantageous to LYNX (the "Selected Proposer").

After the SEC ranks the Proposers in order of priority, notice of the ranking will be given to all parties submitting Proposals (and furnishing proper email addresses). After the SEC recommendation is final (with no further Protest or after the Protest procedure is earlier terminated by the LYNX CEO in accordance with Rule 6), the recommendation of the SEC will then be submitted to LYNX's board of directors for its consideration. The determination of whether to award the Contract and to whom the Contract will be awarded shall be made in the sole and absolute discretion of the LYNX board of directors.

The Selected Proposer is required to enter into a Contract with LYNX in accordance with the terms of its Proposal. LYNX reserves the right to delete, add to or alter provisions of the Contract (including any conflicting provisions of this RFP). LYNX also reserves the right at any time, in its absolute discretion, to cancel the RFP and "rebid".

The procurement process relating to this RFP is solely to benefit LYNX and for LYNX to determine in its discretion which Proposer is entitled to enter into a Contract with LYNX. Although LYNX provides for a Protest procedure, once LYNX selects a Proposer to contract with, that will terminate any further right of Protest by any Proposer. In addition, no Proposer is granted any right to file any lawsuit against LYNX. Proposer, by virtue of submitting a Proposal, 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 Proposer by submitting its Proposal expressly agrees to these limitations.

19. Next Most Advantageous Proposal

In the event that the Selected Proposer fails or refuses to enter into a Contract with LYNX, then LYNX may award the Contract to the Proposer who submits a Proposal 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 RFP and "rebid".

20. The Public Records Act and Trade Secret Information

The Proposer 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, Proposals 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 Proposals are opened. The Proposer is aware of this fact and that it is

possible that its Proposal may be disclosed by LYNX pursuant to a public records request, particularly if another Proposer files a Protest to the procurement.

A Proposer's Proposal may include certain information which the Proposer believes to be a "trade secret." If a Proposer would like for LYNX to treat such information as confidential, particularly in the event LYNX receives a public records request, then the Proposer must 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 Proposer to classify, for example, its entire Proposal as trade secret and thus confidential.

In the event LYNX receives a request for a copy of a Proposer's Proposal, LYNX will endeavor to notify the Proposer and will endeavor to comply with the Public Records Law as to what is required to be produced. Absent any clear identification by the Proposer that a portion of its Proposal is a trade secret and is confidential, LYNX will furnish a copy of the Proposal in response to any valid public records request and LYNX shall have no liability whatsoever for such disclosure. If the Proposer so identifies a portion of its Proposal as being a trade secret and confidential, or if LYNX in its discretion determines that a portion of the Proposal is not subject to disclosure and should not be disclosed (such as if the disclosure would compromise LYNX security systems), LYNX will endeavor to assert said exemption.

In the case of any exemption being asserted by LYNX based upon action by the Proposer (e.g., the Proposer asserts that information in its Proposal is a trade secret and, as a result, LYNX declines to satisfy a public records request for the portion of the Proposal which has been identified as a trade secret), the Proposer will 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.

20. Proposer Affirmation

By submitting its Proposal, the Proposer affirms and declares:

1. That the Proposer or its subcontractors have the capability to assure performance of work within the time specified under the Contract.
2. That the Proposer 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 Proposer has the necessary facilities and financial resources to complete the Contract in a satisfactory manner and within the required time.
4. That the Proposer, if an individual, is of lawful age.
5. That no other person, firm or corporation has any interest in its Proposal or the Contract proposed to be entered into.
6. That the Proposer has not divulged to, discussed or compared its Proposal with other Proposers and has not colluded with any other Proposer or parties to a Proposal whatsoever. (NOTE: No premiums, rebates, or gratuities are permitted either with, prior to, or after any delivery of materials.) Any such violation will result in the cancellation and/or return of materials (as applicable) and the removal of the offending vendor from Proposer List(S).
7. That the Proposer 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 Proposer is not on the Comptroller General's list of ineligible contractors.
9. That, if awarded the Contract, the Proposer 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.

**REQUEST FOR PROPOSAL
TRANSPORTATION NETWORK COMPANY (TNC)
ALTERNATIVE TRANSPORTATION
FOR PARATRANSIT SERVICES**

1. Introduction

LYNX provides paratransit services in Orange, Osceola, and Seminole counties, which includes ambulatory and wheelchair transportation services.

This service is currently being brokered and provided by MV Transportation. The purpose of this Request For Proposal (RFP) is to identify a pool of potential transportation network companies and their available abilities/capacities, including technologies, to augment LYNX paratransit services.

The contract that will be secured will allow LYNX to partner with transportation network companies to offer comprehensive innovative solutions that work together to provide connected services for customers and service providers within Orange, Osceola, and Seminole counties.

The LYNX paratransit fleet currently consists of 185 vehicles. The vehicle types are cutaways, customer vans, and sedans.

Operational Statistics

The below provides shows Ridership for Fiscal Year 2017 (October 2016 to September 2017).

Number of Customer Trips, Monthly 44,871; Annually 538,455.

Minimum Qualifications

The Proposer should meet the minimum qualifications set forth below:

- A. The Proposer shall have three (3) years' experience in managing/providing public transportation services or similar services.
- B. Provide service in accordance with the Americans with Disability Act (ADA).
- C. Proposer shall be licensed and authorized to conduct business in the State of Florida prior to contract execution. Proposer offering wheelchair transportation services shall also be licensed through Orange County Emergency Medical Services.
- D. The Proposer shall be capable of providing paratransit service during the service hours as required in the Scope of Services.
- E. The Proposer shall demonstrate that they and all employees have the appropriate licensing and are properly licensed to drive in the State of Florida. All applicable employees shall be in possession of a valid driver's license appropriate for vehicles operated, including passenger endorsement when appropriate.

- F. Proposer shall provide a description of their financial stability. Each Proposer shall submit a statement of financial condition which demonstrates that the organization is in sound financial condition.
- G. Proposer shall provide a statement of insurability from a reputable insurance company which meets LYNX insurance requirements as stated in this RFP.

2. ACCESS LYNX Service Description

LYNX administers and coordinates several different types of paratransit, “door-to-door” service within Orange, Osceola, and Seminole counties through the ACCESS LYNX program. The Proposer shall assist LYNX by managing and operating the required services currently administered under the ACCESS LYNX program.

LYNX shall be responsible for customer service, customer information, trip-booking, scheduling, and brokering trips to the Proposer to be operated as ACCESS LYNX services. By employing this model, LYNX is focusing on improved service delivery, service quality, and service cost-effectiveness. The model facilitates a best solution for each rider based on a partnership between LYNX and the Proposer to share a mutual mission to provide high quality, responsive, and cost-effective services by optimally managing the resources available to serve ACCESS LYNX customers.

3. Safety and Security

The Proposer shall assume full responsibility for assuring the safety of customers, personnel, and members of the public. The Proposer assumes this responsibility as detailed by Ch. 14-90, Florida Administrative Code (FAC).

In this regard, the Proposer shall develop and implement an ongoing comprehensive safety program covering all aspects of the system. The safety program shall meet, at a minimum, all applicable Federal, State, and local regulations. The safety program shall be submitted and approved by LYNX thirty (30) days prior to service startup. This safety program shall include a zero tolerance policy regarding the operation of electronic devices while providing services to LYNX customers. The Proposer shall require all operators, supervisors, mechanics, and managers to participate in the safety program.

4. Desired Services

- A. Proposer shall accept advanced and same day trip requests when they are able to provide the services in a timely manner.
- B. The Proposer may also submit options for a mobile application.
- C. Transportation for ACCESS LYNX customers within LYNX’ service area.
- D. Customer assistance from vehicle to door and door to vehicle.
- E. Documentation of trip and fare information including customer name, trip origin,

trip destination, reservation requested time, pick-up time, drop-off time, pick-up mileage, and drop-off mileage.

- F. Submission of vouchers and associated documentation to LYNX on a monthly basis for reimbursement.

5. Type of Contract

This is a firm-fixed price contract for the services requested.

6. Period of Performance Contract

The services provided shall be operational for one (1) year from contract award.

7. Exercise of Option

- A. Over the course of the contract, the program will be evaluated for quality, the ability to meet the needs of LYNX and the customer, and the ability to be sustainable in the future.
- B. LYNX will evaluate feedback from both ACCESS LYNX customers and service providers to best determine the program going forward.
- C. The options for this contract are three (3) one (1) year extensions. LYNX may exercise the options of this contract by written notice to the Proposer within the term of the contract. The total duration of this contract, including the exercise of any options, shall not exceed four (4) years from contract award.

8. Scope

LYNX is seeking Proposals from qualified transportation companies to become contracted trip providers for ACCESS LYNX. The ACCESS LYNX program provides alternative transportation options to prequalified customers.

- A. ACCESS LYNX service is transportation for individuals with disabilities, or who are seniors, or are of low income status that cannot access LYNX fixed route bus system. Current ACCESS LYNX services consist of 71% ambulatory trips and 29% wheelchair trips. The service consists of van/sedan transportation, which is based on the individual's needs and either:
 - 1) Picks people up and drops them off at their destination
 - 2) Takes them to an accessible bus stop
- B. LYNX shall reimburse the Proposer on a fixed value for one way trips taken by customers of its ACCESS LYNX service.
- C. The service is intended to serve customers of all types, including all ages and types of disabilities with a wide range of special needs. These disabilities include, but are not limited to, visual impairment; wheelchair users (motorized and non-motorized); frail, slow moving elderly; and persons with cognitive and developmental disabilities. Varying needs

may include, but are not limited to, door-to-door assistance, waiting for slow moving customers, pushing wheelchairs, folding wheelchairs and placing them in the vehicle, and driving slowly and cautiously.

- D. Eligible riders also include Personal Care Attendants, companions, and service animals, as authorized through an eligibility process, at no additional cost.
- E. Services are to be provided to all addresses in the LYNX service area. A map of the service area is provided.
- F. The customer will book their trip directly with LYNX. At the time of trip booking, LYNX will identify if a customer will require a specialized vehicle or assistance. The Proposer must transport non-ambulatory customers in an appropriate wheelchair accessible vehicle.

9. Provider Requirements

LYNX shall require the following from all Proposers responding to this RFP:

- A. The Proposer shall be an approved provider of transportation services by Orange County Emergency Medical Services and comply with all of their requirements therein for wheelchair services. This status of being an approved provider must be maintained throughout the duration of the contract. The Proposer must comply with all applicable rules and regulations of Orange County or their applicable regulatory equivalent successor, and any other applicable Federal or State law, rule, or regulation. These include:
 - 1) ACCESS LYNX Paratransit Policies and Procedures
 - 2) Rule Chapter 14-90, Florida Administrative Code (F.A.C.)
 - 3) All applicable Federal Transit Administration (FTA) regulations, policies, procedures, and directives including those in the FTA Master Agreement between LYNX and FTA
 - 4) Federal law in the Americans with Disabilities Act (ADA) of 1990 and all further amendments and directives
- B. The Proposer shall serve both ambulatory and non-ambulatory customers.
- C. Prior to and over the course of the contract, LYNX or a designated agent shall periodically audit Proposer's records to verify requirements are met.

10. Service Area/Service Hours

- A. Services are to be provided to all addresses within LYNX service areas. No trips are authorized outside of LYNX service area. During the duration of this contract should other current excluded areas become eligible for ACCESS LYNX customers, these areas shall be covered under the same terms and conditions.
- B. Service hours are twenty-four (24) hours a day, seven (7) days per week.

11. Proposer Fleet

- A. The fleet must meet or exceed the LYNX minimum requirements for age and condition. This minimum will include:
 - 1) Less than 200,000 miles
 - 2) Less than seven years of chassis age
- B. Over the course of this contract, LYNX has the right to require the Proposer to bring any vehicle used in this service to the LYNX maintenance facility for inspection.

12. Training

The Proposer shall provide drivers trained for the following:

- A. ADA Customer Sensitivity
- B. Defensive Driving
- C. Customer Assistance
- D. Sensitivity Training - Minimum six (6) hours classroom and two (2) hours “hands-on” (including respectful language, customer assistance, working with customers with various types of disabilities, driving techniques, special consideration, loading, cultural competencies, tie-down training, and role playing). This training shall include empathy training, which shall have operators experience first-hand what customers experience when using the service, e.g., riding up and down on a lift, entering and exiting a vehicle blindfolded, etc. The sensitivity training shall also involve individuals with disabilities talking about their particular needs when traveling on paratransit service.
- E. Dealing with Blood-Borne Pathogens and Air-Borne Pathogens

13. Reservations

- A. At the time of trip offer, the Proposer must quote the one-way price to LYNX. This will confirm the cost of the trip, as well as any costs the customer will be responsible to pay upon completion of the trip.
- B. The customer shall be responsible for paying a fare as defined by LYNX, payable either as cash, ACCESS LYNX prepaid fare tickets, or LYNX PawPass smart phone application. Cash fares are to be deducted from the invoiced trip amount and summarized on the invoice. ACCESS LYNX prepaid fare tickets must be tallied on the invoice and submitted with the invoice for the Proposer to receive credit. PawPass paid fares are to be notated on the Proposer invoice and will be verified for the Proposer to receive credit.
- C. LYNX will furnish the Proposer a service area map in which trips may be performed as well as a customer list of those eligible to receive trips from this service.

14. Personal Care Attendants (PCA) and Companions

- A. The Proposer will allow a PCA to ride with the eligible ACCESS LYNX customer. If it is determined that a PCA is necessary for an individual to travel within the system, LYNX will note this on the individual's permanent record. There is no fare charged for a PCA as this is not a batched service, but the PCA must have the same pick-up and drop-off location as the eligible ACCESS LYNX customer for each trip.
- B. Each customer may have at least one (1) companion who would travel at the same fare as the eligible ACCESS LYNX customer. The PCA and companion(s) of a customer must have the same origin and destination as the eligible customer.

15. Record Keeping

All of the information must be completed in order to receive reimbursement for the value of the provision of the trip:

- 1) Date of customer trip
- 2) Scheduled pick-up time
- 3) Actual pick-up time
- 4) Actual drop-off time
- 5) Actual pick-up odometer
- 6) Actual drop-off odometer
- 7) Name of customer
- 8) ACCESS LYNX Customer ID number
- 9) Full pick-up address
- 10) Full destination address
- 11) Total trip mileage
- 12) Total cost of trip
- 13) Total fare collected from customer
- 14) Net cost of trip, less fare

16. Door-to-Door Service

Proposer shall always provide a door-to-door service when picking up and dropping off customers. The Proposer shall under no circumstances enter into any residence, building, or facility as part of the customer trip.

17. Pick-Up Window

The pick-up window is the timeframe when a vehicle may arrive and be considered on time for a trip. The pick-up window shall be no later than thirty (30) minutes after the scheduled pick-up time.

18. No-Shows

No-shows occur when a customer is not present or unwilling/unable to ride when the vehicle arrives within the pick-up window. With any no-show, dispatch shall attempt to contact the customer prior to abandoning the trip. No-shows shall be tracked by the Proposer and

reported to LYNX. Customer no-shows that are reported to LYNX via email and verified are eligible for reimbursement at a value of ten dollars (\$10.00) per no-show.

19. Late Trips

- A. All efforts must be made to provide the trip within the pick-up window. A late trip is defined as a trip provided outside the pick-up window. If a trip is going to be, or in fact becomes late, the dispatcher must notify the customer of the delay. Should the Proposer arrive outside of the pick-up window, the customer is under no obligation to utilize the Proposer's service and there will be no payment due unless the customer agrees to accept the late trip. These events must be documented by the Proposer and included in the monthly data reports that accompany invoicing.

- B. Trips not picked up within the thirty (30) minute window will be considered late and the Proposer shall incur a ten dollar (\$10.00) liquidated damage charge for that trip.

20. Accommodating Life Support Equipment

Portable respirators and oxygen equipment designed for personal use and not hazardous materials as defined by US Department of Transportation (USDOT) rules are to be accommodated. The equipment shall be small enough so that operators do not have to assist with loading or unloading. The safety and use of this equipment is the responsibility of the customer.

21. Accommodating Wheelchairs

Customers using wheelchairs, motorized chairs, or scooters, defined by the ADA as a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor or of both indoor and outdoor locomotion, are to be accommodated. All mobility aids located in the wheelchair securement area shall be secured using the provided system.

22. Missed Trips

Missed trips are those mutually agreed upon, reserved but not provided. Should a trip be missed, a backup vehicle must be provided to perform the trip. Missed trips without documentation of efforts to contact the customer and no documentation of other circumstance beyond control of the driver are not eligible to be reimbursed. Three (3) verified missed trips over a rolling thirty (30) day period will result in a sixty dollar (\$60.00) penalty to the Proposer. Additional groups of three (3) missed trips will incur additional penalty of sixty dollars (\$60.00) for each occurrence.

23. Required Documentation--Complaint Log

The Proposer shall maintain a customer complaint log which will identify complaints received regarding their service both directly from the customer and through LYNX customer service. Included within the log shall be a record of investigation of the complaint as well as the resolution. The Proposer must contact the customer within three (3) days of receipt of the complaint. Final resolution must be completed within ten (10) working days. Final resolutions will be supplied to LYNX as completed, and entered as well on the monthly complaint log submitted to LYNX with the vendor's invoice.

24. Contract Violations and Penalties

- A. Due to the nature of the service, timeliness and quality of service is important. A pattern of complaints received by LYNX regarding timeliness or quality of service may result in termination of the contract and/or procurement of service from another supplier.
- B. Complaints received by LYNX or the Proposer shall be researched and resolved by Proposer within three (3) business days of receipt. Failure to adequately resolve valid customer complaints by the Proposer may lead to termination of the contract.
- C. Proposer must have resources (driver and vehicle) to respond to an accepted trip request within the thirty (30) minutes pick-up window. Trips not picked up within the thirty (30) minute pick-up window will be considered late and the Proposer will incur a ten dollar (\$10.00) penalty charge. A pattern of late pick-ups may result in termination of the contract.
- D. Falsely reporting a trip as completed which was not actually performed to completion is a direct violation of the contract between LYNX and the Proposer, and as such is grounds for termination of the contract.
- E. LYNX reserves the right to utilize a mystery customer as a method to ensure compliance with the rules set forth in the contract.
- F. In the event of quality of service problems with any driver of the Proposer, LYNX reserves the right to prohibit specific drivers from transporting ACCESS LYNX customers for services covered by this contract.

25. Revenue Collection, Reconciliation, and Deposit

The Proposer shall develop a plan to assure that revenue collection, reconciliation, reporting, and deposit procedures meet industry standards and conform to any local, State, and Federal requirements. Fares collected shall be consistent with the LYNX fare policy for ACCESS LYNX service. Currently, all fares are paid in cash, pre-paid fare tickets, or PawPass smart phone application.

- A. Operators shall collect the customer's fare before boarding. For ACCESS LYNX trips, if the customer is at their residence and does not have fare, the customer shall not be transported and shall be considered a no-show. If the customer is away from their residence and does not have their fare, the customer is to be transported home and a zero fare collection reported. The Proposer is expected to attempt to collect all fares; however, it shall not be held responsible for customer fares that are not collected when the customer is away from their residence.
- B. The Proposer is responsible for reporting the fares that were to be collected and the fares actually collected during the invoicing month. LYNX shall monitor uncollected fares closely to ensure maximum revenues to the program.

- C. In the absence of a functional fare box, operators shall collect cash or tickets from customers.
- D. All customers are expected to have exact change and operators are not expected to make change.
- E. All revenue collected by the Proposer is the property of LYNX.
- F. All cash revenue collected shall be deducted from the Proposer's monthly invoice.
- G. The Proposer shall reconcile any revenue missing or stolen from vehicles or facilities.
- H. LYNX shall establish the fare structure for the system. Any change in the fare structure authorized by LYNX shall be implemented by the Proposer in the manner and at the time prescribed by LYNX.
- I. Operators shall be required to ensure that each customer pays the appropriate fare prior to being provided transportation service.
- J. Operators are not allowed to accept or solicit tips. As part of its internal service monitoring function, the Proposer shall be required to monitor its operators to ensure there is no soliciting or accepting of tips from customers.
- K. Operators shall complete and sign the trip summary sheets at the conclusion of the operator's shift. The trip summary sheet shall include the revenue, tickets collected from each customer, and PawPass usage.
- L. All discrepancies shall be investigated and reported on the monthly reconciliation report.
- M. The Proposer shall regularly review revenue collection procedures and their implementation.

26. Management and Staffing Requirements

The Proposer shall provide the necessary management and administrative personnel whose expertise shall ensure efficient operation of all ACCESS LYNX services. LYNX recognizes that a high quality operation begins with key personnel. Therefore, a minimum level of required staffing is described below and staffing shall be a key consideration in the awarding of a contract. The Proposer shall ensure that staffing levels meet or exceed the demand for service. This includes administrative staff as well as vehicle operators and maintenance teams.

27. Minimum Drug and Alcohol Policy Standards

The Proposer shall maintain an active Drug Free Workplace Program by adopting the LYNX approved Drug and Alcohol Policy. The program, at a minimum, shall meet minimum Federal guidelines under 49 CFR Part 40, as amended, 49 CFR Part 655, and 49 CFR Part 29, "The Drug Free Workplace Act Of 1988." The Proposer shall contract with a LYNX approved Third Party Administrator. The Proposer shall be responsible for complete compliance with the regulations including, but not limited to, adoption of required policies, testing, record keeping, and reporting. The cost of compliance with the regulations shall be the sole responsibility of the Proposer. LYNX, or its authorized agent, has the right to inspect the Proposer's drug and alcohol testing program and all records maintained thereunder. Purchasing or consuming illegal substances or alcoholic beverages while in or out of uniform shall not be allowed. It shall be the Proposer's responsibility to terminate any employee observed doing so. The policies for addressing such incidents shall be included in the Proposer's Drug and Alcohol Policies, as required by the FTA, and in compliance with the FTA Drug and Alcohol Regulations.

28. Confidentiality of Customer Information

The Proposer agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a and the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Proposer shall ensure that all employees and Subcontractors understand that the requirements of the Privacy Act and HIPAA, including the civil and criminal penalties for violation of that Act, and that failure to comply with the terms of the Privacy Act shall result in termination of the underlying contract. The Proposer also agrees to include these requirements in each subcontract to administer any system of records related to this Scope of Work and awarded contract.

29. Accounting and Records

- A. **Accounting.** The Proposer shall maintain complete and accurate books of account that accurately and thoroughly reflect all fares and other revenues collected.
- B. **Record Retention and Inspection.** The Proposer shall maintain all operational and financial records, including required reports, for a period of not less than five (5) years after the termination or expiration of the contract. Such records shall include dispatch records, billing records, timesheets, accident and incident reports, and any other paper, magnetic, or digital records relating to the operation of the service. These records shall be surrendered, on demand, and at no additional cost to LYNX.

30. Required Insurance

- A. **Required Program of Insurance.** Without limiting Proposer's indemnification of LYNX, the Proposer shall be required to provide and maintain at its own expense throughout the contract term, a program of insurance that includes comprehensive general liability, endorsed for premises, operations, products and completed operations, independent Proposers and personal injury, and that covers all events occurring during the contract term. The program of insurance shall also include comprehensive automobile liability endorsed for bodily injury and property damage on all vehicles; contractual liability coverage; and "all perils" or broad form property damage insurance covering the vehicles, facility, and the

equipment therein. Additionally, all revenue vehicles shall be insured against comprehensive and collision damage satisfactory to LYNX at a rating no less than an "A". The Proposer shall also agree to the following conditions:

- 1) LYNX, its officers, agents, employees, and members of the LYNX Board of Directors shall be included as additionally insured in all liability insurance policies except Worker's Compensation and Legal Liability coverage, i.e., fire.
- 2) Such insurance shall be primary with respect to any insurance maintained by LYNX and not contributing with any other insurance maintained by LYNX.
- 3) Such insurance shall be obtained from brokers of carriers rated "A" or better in the Best Insurance Guide, and authorized and licensed to transact insurance business in the State of Florida.
- 4) Evidence of such insurance shall be submitted to and approved by LYNX prior to commencement of any work under the contract.
- 5) Such insurance shall not be canceled, materially reduced in coverage or limits, or non-renewed in the case of a continuous policy, except after forty-five (45) days written notice by registered or certified mail has been given to LYNX.
- 6) The Proposer shall be required to submit two (2) certified copies of the policies with endorsements or other evidence acceptable to LYNX.
- 7) The insurance afforded by the policy for contractual liability insurance (subject to the terms, conditions and exclusions applicable to such insurance) shall include liability assumed by the Proposer under the indemnification and/or hold harmless provisions of the contract.

B. General Liability

Throughout the contract term, the Proposer shall be required, at its sole cost and expense, to procure and maintain in full force and effect, comprehensive general liability insurance as follows:

- 1) \$5,000,000 Bodily Injury and Property Damage (each occurrence)
- 2) \$5,000,000 Personal and Advertising Injury (each occurrence)
- 3) \$10,000,000 General Aggregate
- 4) \$5,000,000 Products/Completed Operations Aggregates limit
- 5) \$10,000 Medical Payments (each occurrence)
- 6) \$100,000 Fire Damage Legal Liability (each occurrence)

The Proposer shall be required to furnish LYNX with a certificate from its insurance carrier showing proof of such coverage.

C. Automobile Liability Insurance

Proposer shall maintain a combined single limit of not less than \$5,000,000 Bodily Injury and Property Damage in accordance with the laws in the State of Florida, as to the ownership, maintenance, and use of all owned, non-owned, leased or hired vehicles.

Environmental Liability Insurance shall be maintained by the selected firm or individual with a per- occurrence limit of not less than \$5,000,000 protecting the selected firm or individual and LYNX against any and all claims for environmental impact during the performance of services. All "claims made" coverage shall be endorsed with a twelve (12) month tail of coverage.

D. Hold Harmless

The Proposer is required to protect, defend, indemnify, and hold LYNX, its officers, members, Board of Directors, management consulting staff, and agents, free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind and character (hereinafter collectively "claims") in connection with or arising directly or indirectly out of the contract or the performance thereof by the Proposer or any Subcontractor. Without limiting the generality of the foregoing, any and all such claims, relating to personal injury, infringement of any patent, trademark, copyright (or application for any thereof) or of any other tangible or intangible personal or property right, or actual or alleged violation of any other tangible or intangible personal or property right, or actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. The Proposer shall be required to investigate, handle, respond to, provide defense for, and defend any such claims, at its sole expense and agrees to bear all other costs and expenses related thereto, whether or not it is alleged or determined that the Proposer was negligent, and without regard to whether such claim is groundless, false, or fraudulent. LYNX shall not hold harmless or indemnify the Proposer for any liability whatsoever.

E. Workers Compensation

Workers Compensation shall be maintained by the selected firm or individual for all employees engaged in the work under the awarded contract in accordance with the laws of the State of Florida and shall furnish LYNX with a certificate showing proof of such coverage. Employers Liability Insurance (ELI) shall be maintained by the selected firm or individual at limits not less than Florida statutory requirements and shall include a waiver of subrogation

in favor of LYNX. Such insurance shall not be canceled or materially changed without a forty-five (45) day prior written notice to and subsequent written approval by LYNX.

F. Commercial Crime Coverage

The Contractor shall purchase and maintain, throughout the term of this contract, Commercial Crime Coverage to pay for losses to LYNX property or money caused by employee dishonesty, theft, or robbery of money inside/outside the premises. The minimum limits shall be: \$500,000 per occurrence/\$1,000,000 Aggregate.

31. Billing and Payment

During the contract period, the Proposer shall submit to LYNX monthly invoices with full and appropriate documentation. The Proposer shall submit the original invoice and one (1) copy to the LYNX designated official. Each month the Proposer shall bill LYNX for the contracted per-unit cost. The per-unit costs shall be based on the pricing as submitted in Price Proposal (see Appendix A) and negotiated through the Best and Final Offer.

LYNX shall then pay the Proposer an amount equal to the contracted per-unit cost, minus actual customer fare revenues collected, minus any liquidated damages.

The monthly reports required by the Proposer shall accompany the monthly invoice. Payment shall be made by LYNX within thirty (30) days of verification and acceptance of the invoices and required monthly reports by LYNX. If any portion of the invoice is disputed by LYNX, LYNX agrees to reimburse the Proposer for its undisputed costs. Disputed costs shall be resolved in thirty (30) days and shall be included in the subsequent month's payment to the Proposer.

EXHIBIT C
PROPOSAL EVALUATION

A. Proposal Evaluation Criteria

The following are the complete criteria by which Proposals from responsible Proposers will be evaluated and ranked for the purposes of selecting a Proposer for a potential contract award.

This solicitation will be evaluated using the following factors and corresponding maximum available points:

CRITERIA	WEIGHTED FACTOR
Experience, Financials, Qualifications and Background	20%
Core Fleet, Operation Plan, and Level of Service	35%
Customer Service Plan	20%
Cost	25%

i. **Best and Final Offer**

The Source Evaluation Committee (SEC) may make an award recommendation based upon the initial proposals received, request a revised proposal based upon further clarifications and/or questions, supplier interviews, or supplier presentations or request the Procurement Department to negotiate and to obtain a best and final offer.

ii. **Notification of SEC Meetings**

Each Proposer shall be notified of the time, date and place of the SEC Meeting (s) as well as all information regarding the solicitation shall be posted on LYNX Procurement website. These Meeting(s) are open to the Public in accordance with "Florida's Government in the Sunshine Law". All Proposers and Members of the Public may attend the meeting and observe the Procurement Process. Public comments shall not be permitted at the SEC Meetings.

EXHIBIT D
TERMS and CONDITIONS

The Successful Proposer 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 will result in a firm fixed contract.

2. Period of Performance/Contract Term

The contract awarded pursuant to this RFP will have a term of one (1) year with the option to extend three (3) one (1) year extensions.

3. Purchase Orders

LYNX will issue a Purchase Order for the services to be rendered.

4. Invoicing and Payment Terms

The Contractor 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 will be paid within 30 days from receipt of a proper invoice.

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

The invoice must contain the following information;

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

5. Proposer Site Inspection and Evaluation

LYNX reserves the right to inspect Proposer's facilities prior to award or at any reasonable time throughout the contract period.

6. Contract Modifications

No change in this contract shall be made unless LYNX gives its prior written approval. Therefore, the Proposer 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 LYNX. Any changes requested by the Proposer must be submitted to the Senior Purchasing Agent assigned under this contract.

7. Project Manager

The Project Manager (PM) assigned to this contract 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. Contract Administrator

The Contract Administrator (CA) assigned to this contract is responsible to ensure the Contractor is in compliance with the contract. Any requests for Contract changes must be sent directly to the CA. All DBE reporting (if required) will be submitted to the CA as required.

EXHIBIT E
LYNX GENERAL PROVISIONS

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

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

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 loading 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 nonurbanized 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 Nonurbanized Areas.* If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. 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 loading 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 F
PROPOSER'S OFFER and GUARANTEES

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

PROPOSER'S NAME AND ADDRESS			PAYMENT REMITTANCE ADDRESS	
Name:			Name:	
Address:			Address:	
P.O. Box or Suite No.			P.O. Box or Suite No.	
City			City	
State	Zip		State	Zip
Contact Person:				
Telephone No.	Fax No.	E-Mail Address:		
FEDERAL EMPLOYER I.D. NUMBER:		SOCIAL SECURITY NUMBER: (If Federal I.D. is not applicable)		
Payment Terms:		Age of Firm:		
Disadvantaged Business Enterprise: () Yes () No If yes, certified by which agency?				
Minority Business Category: () Female () Black () Hispanic () Asian American () Indian/Alaskan Native () Other () Not Applicable				
Annual Gross Receipts: () less than \$500,000 () \$500,000 to \$1 million () \$1 million to \$5 million () greater than \$5 million				
Proposer's License Type:				
Proposer's License Number:				
License Expiration Date:				
NAME OF PROPOSER (Type or Print)			TITLE OF PROPOSER	
Signature of Proposer's Authorized Official			(Date Signed)	

THIS FORM MUST BE COMPLETED AND RETURNED WITH YOUR PROPOSAL

EXHIBIT G
CERTIFICATION REGARDING DEBARMENT

The prospective Proposer certifies, by submission of this bid or 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 Proposer is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its Proposal, the Proposer 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 or proposer 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 or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Signature of Proposer's Authorized Official

Name of Proposer's Authorized Official

Title of Proposer's Authorized Official

Date

THIS PAGE MUST BE COMPLETED AND RETURNED WITH YOUR PROPOSAL

EXHIBIT H
CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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

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

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

(3) The undersigned shall require that the language of this certification be included in the award documents for all 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 Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official: _____

Name and Title of Contractor's Authorized Official: _____

Date: _____

EXHIBIT I DISADVANTAGED BUSINESS ENTERPRISE PROVISIONS

For assistance in identifying subcontracting opportunities or with questions concerning the provisions in this Exhibit ONLY, contact Desna Hunte, LYNXS's DBE Coordinator at 407.254.6117. dhunte@golynx.com

1. Disadvantaged Business Enterprise (DBE) Policy

The Central Florida Regional Transportation Authority (LYNX) receives Federal financial assistance from the U. S. Department of Transportation (USDOT). As a condition of receiving USDOT assistance, LYNX has signed an assurance that it will comply with 49 CFR Part 26, Disadvantage Business Enterprise (DBE) Program.

It is the policy of the LYNX to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT – assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

"Disadvantaged Business Enterprise" or "DBE" means a for profit small business concern: (1) which is at least 51 percent owned by one or more socially or economically disadvantaged individuals, or in the case of a corporation in which 51 percent of the stock is owned by one or more such individuals; and (2) whose management and daily business operation are controlled by one or more of the socially and economically disadvantaged individuals who own it.

LYNX's agency-wide DBE goal for FY10 is 10%. **The DBE goal established for this solicitation is [_____]%**. If the goal is 0% (considered as race neutral), LYNX encourages Prime Contractors to provide and report opportunities to DBEs.

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of 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.

Only the work actually performed by a certified DBE will be counted towards the DBE participation. The cost of supplies and materials obtained by the certified DBE or equipment leased (except from the prime contractor or its affiliate) may also be counted per 49 CRF Part 26. Work that a certified DBE subcontracts to a non-DBE firm does not count toward DBE participation. A certified DBE should perform at least 30 percent of the total cost of its contract with its own work force. If materials or supplies are obtained from a certified DBE manufacturer, 100 percent of the cost will be counted for DBE participation. If the materials or supplies are purchased from a certified DBE dealer, 60 percent of the cost will be counted for DBE participation.

DBE achievement will not be counted toward the overall contract until the certified DBE has been paid.

2. DOT Short Term Lending Program (STLP)

The U.S. Department of Transportation (DOT) offers a variety of programs to help certified DBE firms to access the capital they need to participate in transportation contracts. DOT has joined state and local governments and the private sector in a cooperative effort to provide certified DBEs with access to the capital they need to grow and compete in the transportation market place.

Many DBEs, that are qualified to perform transportation-related contracts, have experienced difficulty in obtaining short-term working capital. In response, the U.S. Department of Transportation (DOT) Short Term Lending Program (STLP) was developed by the Office of Small and Disadvantaged Business Utilization (OSDBU) to offer certified DBE's the opportunity to obtain short-term working capital at variable interest rates for transportation-related projects.

- (a) To be eligible to receive a STLP a business must be a certified DBE and have at least three years of past performance history. Start-up businesses are not eligible.

- (b) The STLP provides revolving lines of credit to finance accounts receivable arising from transportation-related contracts. The primary collateral consists of the proceeds of the contracts. Borrowing under the lines of credit are to meet the short-term costs of performing the contract(s) being financed. Start-up businesses are not eligible to apply for the STLP. It is recommended that a business have at least a three year past performance history before applying to the program. Additional information may be found at <http://www.osdbu.dot.gov/>.

3. Record Retention

The Contractor will keep records and documents for a period of three years following performance of this contract to indicate compliance with LYNX's DBE goal. These records and documents will be made available at reasonable times and places for inspection by any authorized representative of LYNX and will be submitted to LYNX upon request.

4. Prompt Payment

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 14 days from the receipt of each payment the prime contractor receives from LYNX. The prime contractor agrees further to return retainage payments to each subcontractor within 14 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of LYNX. This clause applies to both DBE and non-DBE subcontractors. If the prime contractor determines the work to be unsatisfactory, they must notify LYNX's Project Manager immediately, in writing, and state the reason(s) of unsatisfactory work performance. Failure to satisfy prompt payment to DBE's no later than 14 days from the receipt of payment from LYNX will be cause to terminate the contract.

5. False, Fraudulent, Dishonest Statements and Debarment

LYNX will bring to the attention of the U. S. Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program. LYNX will also inform prime contractors and subcontractors participating in LYNX contracts of the legal ramifications of any false, fraudulent, or deceitful statements or representations utilized by them to participate in the DBE program. This may include suspension or debarment or referral to the Department of Justice for prosecution under 18 U.S.C. 1001 or other applicable provisions or law.

6. DBE Good Faith Efforts

If an Offeror does not meet the DBE goal, it shall nevertheless be eligible for award of the contract if it can demonstrate to the Contracting Officer that it has made a good faith effort to meet the DBE goal. This good faith efforts documentation should be submitted when the initial response to LYNX's solicitation is due. All contractors, including DBE prime contractors, are required to submit good faith efforts documentation, if necessary. In evaluating an Offeror's good faith effort submission, LYNX will only consider those documented efforts that occurred prior to the good faith efforts determination.

In the event that a firm submitted by an Offeror is not certified, the Offeror will be notified and given an opportunity to substitute that firm with a certified DBE firm. The Offeror will have five (5) calendar days from the date of notification to accomplish the substitution. In the event the Offeror is unable to contract with another substitute DBE firm, the good faith efforts that the Offeror made in attempting to contract with a substitute DBE firm must be documented to the Contracting Officer at the end of the same five (5) calendar day period.

In making a determination that the Offeror has made a good faith effort to meet the DBE goal, the Offeror shall furnish to the Authority, as part of its DBE utilization information provided under the Submission of DBE Utilization Forms and Related Documentation provision, such specific documentation concerning the steps it has taken to obtain DBE participation.

All offerors on federally funded contracts with a specific DBE goal must, in order to be responsible, make good faith efforts to include DBE participation. This means that the offeror must show that it took all necessary and reasonable steps to achieve DBE participation, even if they were not fully successful.

The Contracting Officer must make a fair and reasonable judgment whether an offeror made adequate good faith efforts. It is important to consider the quality, quantity, and intensity of the different kinds of efforts that the offeror has made. The efforts employed by the offeror should be those that one could reasonably expect an offeror to take if the offeror were actively and aggressively trying to obtain DBE participation sufficient to meet DBE participation. Mere pro forma efforts are not good faith efforts to guarantee DBE participation. It is emphasized, however, that determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.

(a) The following is a list of types of actions which will be considered as part of the offeror's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases:

In making a determination that the Offeror has made a good faith effort to meet the DBE goal, the Offeror shall furnish to LYNX, as part of its DBE utilization information, such specific documentation concerning the steps it has taken to obtain DBE participation. By way of illustration and not limitation, LYNX will consider the following information:

- (1) Whether the Offeror attended any pre-bid or pre-proposal meetings scheduled by LYNX to discuss, among other matters, DBE participation opportunities and acknowledged receipt of DBE certified vendor lists;
- (2) Whether the Offeror advertised in general circulation, trade association, and/or minority/women-focus media concerning subcontracting opportunities;
- (3) Whether the Offeror provided written notice to a reasonable number of DBEs that their interest in the contract was being solicited in sufficient time to allow DBEs to participate effectively;
- (4) Whether the Offeror followed up initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested;
- (5) Whether the Offeror selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goals (including, where appropriate, breaking down the contract into economically feasible subcontracts to facilitate DBE participation);
- (6) Whether the Offeror provided interested DBEs with adequate information about the plans, specifications, scope of work and requirements of the contract;
- (7) Whether the Offeror negotiated in good faith with interested DBEs regarding their capabilities, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation;
- (8) Whether the Offeror negotiated in good faith with interested DBEs regarding price, using good business judgment and not rejecting reasonable quotes from interested DBE firms;
- (9) Whether the Offeror made efforts to assist interested DBEs in obtaining bonding, lines of credit, insurance, etc., as required by LYNX or the Offeror;
- (10) Whether the Offeror made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services;
- (11) Whether the Offeror effectively used the services of available minority and women community organizations; contractor groups; local, State, and Federal business assistance offices; and other organizations that provide assistance in the identification of DBEs;
- (12) Whether the Offeror obtained written documentation from a bona fide surety company indicating that bonding was denied and for what reason(s), prior to the DBE being rejected as a potential subcontractor for failing to obtain Offeror-required bonding. Documentation furnished by a surety company will be subject to verification by LYNX; and
- (13) Whether other Offerors have attained a sufficient level of DBE participation to meet the contract goals.

7. Administrative Reconsideration

Within 3 days of being informed by LYNX that the offeror is not responsive because it has not documented sufficient good faith efforts, an offeror may request administrative reconsideration. The offeror should make this request, in writing, to the following reconsideration official: Chief of Administration, Mr. Edward Johnson, 455 North Garland Ave, Orlando, FL 32801. The reconsideration official will not have played any role in the original determination that the offeror did not document sufficient good faith efforts.

As part of this reconsideration, the offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it made adequate good faith efforts to do so. The offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it made adequate good faith efforts. LYNX will send the offeror a written decision on reconsideration, explaining the basis for finding that the offeror did or did not make

adequate good faith efforts. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

8. Financial Institutions

The Contractor is encouraged to utilize the services of socially and economically disadvantaged, minority and woman-owned financial institutions. The identities of such institutions are available from the Contracting Officer.

9. Modifications or Substitutions

This Provision applies to all modifications and substitutions under this Contract. The prime contractor will be required to comply with this Provision to the extent needed to achieve the LYNX DBE goals agreed to at the time of contract award.

If a prime contractor wishes to terminate or substitute a subcontractor listed as fulfilling its contract goal, it must submit written documentation prior to the termination or substitution of the subcontractor to the Contracting Officer. This will include any changes to items of work, material, services, or firms that differ from those identified on the Intent to Perform As A Subcontractor form(s) on file with the Contracting Officer. The prime contractor must provide any and all documentation and information as may be requested with respect to the requested change.

The prime contractor's documentation shall include the specific reasons for the proposed change. Specific reasons that are acceptable include, but are not limited to: the subcontractor was not able to perform; the subcontractor was unable to produce acceptable work; and/or the subcontractor has submitted an unreasonable escalation in price. In the case of a subcontractor being substituted by another subcontractor, the prime contractor should include the name, address, and telephone number, and principal office of the proposed subcontracting firm. The Chief of Civil Rights Officer will approve or disapprove the change.

If the change involves a subcontractor substitution, the prime contractor must make good faith efforts to replace one DBE subcontractor with another DBE subcontractor. The substitute DBE subcontractor must be certified by an agency in the Florida's Unified Certification Program (UCP) in order for the prime contractor to receive credit toward fulfilling its DBE participation goal for the contract. In the event that the prime contractor is unable to contract with another DBE firm, good faith effort documentation must be provided to the Contracting Officer describing the unsuccessful attempts to locate a substitute DBE subcontractor. In all situations, the prime contractor may not terminate or substitute a DBE subcontractor without the prior written consent of the Contracting Officer.

The prime contractor must submit a new Intent to Perform as a Subcontractor form for the substitute subcontractor(s) with the request for change, to verify that any new subcontractor(s) are approved and any DBE is certified by an agency in Florida's Unified Certification Program. The Contracting Officer shall notify the prime contractor in writing of the decision as expeditiously as possible. If the contract has been awarded and the Contracting Officer approves the proposed substitution in writing, the prime contractor shall provide a copy of the executed subcontract agreement with the proposed subcontractor to the Contracting Officer within fourteen (14) days of its receipt of the substitution approval.

If the change involves a modification, the Contractor must submit, if applicable, the Intent to Perform as a Subcontractor form specified for contract modifications for any LYNX subcontractor affected by this change. This form may be obtained from the Contracting Officer.

If the Contractor does not comply with this Provision, LYNX may elect to apply contract remedies as defined in 49 CFR Part 26, or other contract remedies, as appropriate. Additionally, the Contracting Officer may order that the profits from the terminated portion of the LYNX subcontract be forfeited by the Contractor.

ATTACHMENT 1 TO EXHIBIT I

CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY – DBE FORM

**INTENT TO PERFORM AS A SUBCONTRACTOR
FOR A CONTRACT AWARD**

All subcontracting firms to be used on this solicitation must fill out this form. DBE firms participating in LYNX's contracting opportunities must have "current" certification status with Florida's Unified Certification Program (UCP) prior to award of this contract. DBE certification of any firm must be current; DBE certification is effective for three (3) years from the date of written notification of certification. If LYNX determines that the firm is not an eligible DBE firm for LYNX contracts and subcontracts, the prime contractor will be notified of the ineligibility of the listed firm. The submission of this form is considered an issue of responsibility and LYNX will not award a contract to any Offeror who has not supplied this documentation.

1. Name of Offeror / Prime Contractor _____.
2. The undersigned has been certified by the Florida UCP _____.
3. The undersigned is prepared to perform the following described work and/or supply the material listed in connection with the above project (where applicable specify "supply" or "install" or both):

and at the following price \$ _____. Or _____% of the Contract value.

Note: A separate form must be completed for each DBE firm.

(Name of DBE Firm)

BY: _____
(Signature of Owner, President or Authorized Agent)

DATE: ____/____/____ PHONE: _____

(Print or Type - Name of Signature of Owner, President or Authorized Agent of DBE firm)

DECLARATION OF PRIME CONTRACTOR

I HEREBY DECLARE AND AFFIRM that I am the _____
(Title of Declarant)

and a duly authorized representative of _____
(Name of Prime Contractor)

to make this declaration and that I have personally reviewed the material and facts set forth in this Intent to Perform form. To the best of my knowledge, information and belief, the facts and representations contained in this form are true, the owner or authorized agent of the (DBE) firm signed this form in the place indicated, and no material facts have been omitted.

Except as authorized by the Contracting Officer, the undersigned will enter into a formal agreement with the listed (DBE) firm for work as indicated by this form within ten (10) business days after receipt of the contract executed by the Central Florida Regional Transit Authority. The undersigned will provide the Contracting Officer a copy of that agreement within three (3) business days of execution.

The Prime contractor designated the following person as their DBE Liaison Officer:

(Name-Please Print)

(Phone)

Pursuant to 49 CFR Section 26.107, any person [entity] who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes and may be referred to the Department of Transportation, and possibly the Department of Justice, for prosecution.

(Name of Declarant)

(Signature)

(Date)

ATTACHMENT 2 TO EXHIBIT I

CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY – DBE FORM

INSTRUCTIONS FOR CONTRACTORS
"HOW TO FILL OUT VENDOR PAYMENT REPORT"

The Vendor Payment Report is to be filled out by the Contractor and submitted with each invoice. The instructions below correspond to each item on the reverse side of the report. Please follow the instructions.

1. **Invoice No.**
Fill in the invoice number accompanying this report.
2. **Report No.**
Fill in the number of the report you are sending in sequence. For example: If this is the second invoice you are submitting, you are sending in Report No. 2.
3. **Reporting Period**
This is to be filled in to state the period of time you are reporting. Example: From: April 1, 2009 To: April 30, 2009.
4. **LYNX Contract Number**
Fill in the contract number assigned to your project by LYNX.
5. **Type of Contract**
Designate the type of contract that has been awarded your company by LYNX.
6. **Contractor's Business Name, Address and Telephone Number**
Fill in your company's name, address, and telephone number.
7. **Date of Contract Award**
Fill in the date contract was executed by both you and LYNX.
8. **Scheduled Date of Completion**
Fill in completion date of contract as written in contract.
9. **Original Contract Amount**
Fill in dollar amount of original contract agreed upon by you and LYNX.
10. **Current Amended Contract Amount and Date**
Fill in dollar amount of original contract plus/minus the dollar amount agreed upon at a later date as a result of contract modifications, if applicable. Include date modification was executed.
11. **Total Amount Received to Date**
Fill in the dollar amount you have received from LYNX to-date.
12. **Total Amount Owed**
Fill in the dollar amount of the contract minus amount paid to you by LYNX.
13. **Committed DBE Participation**
Fill in the percentage of DBE participation you committed to obtain in the contract.
14. **Instructions for Calculation of DBE Percentage**
15. **Actual DBE Percent Paid-to-Date**
Fill in the calculated dollar amount paid to the DBE divided by the dollar amount you received from LYNX.
16. **Name of Subcontractors**
Name all DBE subcontractors. (Use additional sheets as necessary.)
17. **DBE**
State whether the DBE subcontracting firm is a 51% owned and operated by male/female (M=Male, F=Female) and ethnicity (B=Black American, H=Hispanic American, N=Native American, S=Subcontinent Asian American, A= Asian-Pacific American, W=Non-minority female, O=Other) in this column.
18. **Description of Work**
State the work performed by the DBE subcontractor.
19. **Amount and Date of Last Payment**
State the amount and date of last payment made to each DBE subcontractor. Submit evidence of payment, i.e., cancelled check, check register, etc.
20. **Subcontract Value (Dollars)**
State the committed dollar value to the DBE subcontractor for the duration of the contract.
21. **Total Amount Paid-to-Date (Dollars)**
Add all amounts paid to each DBE subcontractor to date.
22. **Percent of Earned Progress to Date**
State dollar amount paid to the DBE subcontractor divided by the amount committed to them.
23. **Amount of This Invoice Allocated to the Subcontractor**
Fill in how much of this invoice will be paid to each DBE subcontractor.

ATTACHMENT 3 TO EXHIBIT I

**CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY – DBE FORM
VENDOR PAYMENT REPORT**

Central Florida Regional Transportation Authority
455 N. Garland Ave
Orlando, FL 32801

For Official Office Use Only	1) Invoice No.	2) Report No.
	3) Reporting Period From:	To:

Instructions: All prime contractors are required to complete and submit this report as specified in the contract, or as requested by the Contracts Specialist, until final payment of the contract. Note: Failure to comply with LYNX's Disadvantaged Business Enterprise provisions may result in contract termination, or the suspension or debarment of the contractor from doing business with LYNX in the future in accordance with the procedures set forth in LYNX's Procurement Regulations. To complete this report, see detailed instructions on the proceeding page of Exhibit G. **This report must be submitted with each invoice.**

4) LYNX Contract Number		5) Type of Contract (X) () Construction () Service () Professional () Supply		6) Contractor's Business Name, Address and Telephone Number					
7) Date of Contract Award		8) Schedule Date of Completion		9) Original Contract Amount \$ _____		10) Current Contract Amount, Including Modifications (\$ and date) <small>(State amount & date of most recent modification)</small> \$ _____ / ____ / ____			
11) Total Amount Received To Date \$ _____		12) Total Amount Owed \$ _____		13) Committed DBE percentage _____ %		14) DBE Instruction for Calculation of Percentage: Dollar amount paid to DBE divided by dollar amount received by Contractor from LYNX.		15) Actual DBE Participation % to Date _____ %	
		Amount of This Invoice \$ _____							
16) Name of Subcontractor	17) DBE Ethnicity and Gender	18) Description of Work	19) Amount & Date of Payment(s) Made During Current Invoice Period	20) Subcontract Dollars	21) Amount Paid to Date (Dollars)	22) % Paid to Date	23) Amount of This Invoice Allocated to Subcontractor		
			\$ _____		\$ _____				
			\$ _____		\$ _____				
			\$ _____		\$ _____				
			\$ _____		\$ _____				
Company Official's Signature & Title			Date Signed			Name & Title of Individual Completing Report			
			/ /						

**Price Proposal
Exhibit L**

The Proposer is required to sign and date this Exhibit L and submit it with their Proposal.

The undersigned hereby agrees to furnish the services as listed below in accordance with the specifications contained in this Request For Proposal.

Compensation for the provision of the requested service shall be determined on a **cost per trip basis**. The cost per trip represents the total cost to your company. Each unit price must include all costs. No price adjustments will made.

AMBULATORY SERVICES

Year One (1)

Service Description	Average System-wide Trips Provided Monthly	Per Trip Rate	Customer Pay	LYNX Cost	LYNX Extended Cost
0.00 to 1.99 Mile Trip		\$	\$	\$	\$
2.00 to 3.99 Trip		\$	\$	\$	\$
4.00 to 5.99 Mile Trip		\$	\$	\$	\$
6.00 to 7.99 Mile Trip		\$	\$	\$	\$
8.00 to 9.99 Mile Trip		\$	\$	\$	\$
10+ Mile Trip		\$	\$	\$	\$

Option Year 1

Service Description	Estimated Monthly Average	Per Trip Rate	Customer Pay	LYNX Cost	LYNX Extended Cost
0.00 to 1.99 Mile Trip		\$	\$	\$	\$
2.00 to 3.99 Mile Trip		\$	\$	\$	\$
4.00 to 5.99 Mile Trip		\$	\$	\$	\$
6.00 to 7.99 Mile Trip		\$	\$	\$	\$
8.00 to 9.99 Mile Trip		\$	\$	\$	\$
10+ Mile Trip		\$	\$	\$	\$

Option Year 2

Service Description	Estimated Monthly Average	Per Trip Rate	Customer Pay	LYNX Cost	LYNX Extended Cost
0.00 to 1.99 Mile Trip		\$	\$	\$	\$
2.00 to 3.99 Mile Trip		\$	\$	\$	\$
4.00 to 5.99 Mile Trip		\$	\$	\$	\$
6.00 to 7.99 Mile Trip		\$	\$	\$	\$
8.00 to 9.99 Mile Trip		\$	\$	\$	\$
10+ Mile Trip		\$	\$	\$	\$

Option Year 3					
Service Description	Estimated Monthly Average	Per Trip Rate	Customer Pay	LYNX Cost	LYNX Extended Cost
0.00 to 1.99 Mile Trip		\$	\$	\$	\$
2.00 to 3.99 Mile Trip		\$	\$	\$	\$
4.00 to 5.99 Mile Trip		\$	\$	\$	\$
6.00 to 7.99 Mile Trip		\$	\$	\$	\$
8.00 to 9.99 Mile Trip		\$	\$	\$	\$
10+ Mile Trip		\$	\$	\$	\$

WHEELCHAIR SERVICES

Year One (1)

Service Description	Average System-wide Trips Provided Monthly	Per Trip Rate	Customer Pay	LYNX Cost	LYNX Extended Cost
0.00 to 1.99 Mile Trip		\$	\$	\$	\$
2.00 to 3.99 Trip		\$	\$	\$	\$
4.00 to 5.99 Mile Trip		\$	\$	\$	\$
6.00 to 7.99 Mile Trip		\$	\$	\$	\$
8.00 to 9.99 Mile Trip		\$	\$	\$	\$
10+ Mile Trip		\$	\$	\$	\$

Option Year 1					
Service Description	Estimated Monthly Average	Per Trip Rate	Customer Pay	LYNX Cost	LYNX Extended Cost
0.00 to 1.99 Mile Trip		\$	\$	\$	\$
2.00 to 3.99 Mile Trip		\$	\$	\$	\$
4.00 to 5.99 Mile Trip		\$	\$	\$	\$
6.00 to 7.99 Mile Trip		\$	\$	\$	\$
8.00 to 9.99 Mile Trip		\$	\$	\$	\$
10+ Mile Trip		\$	\$	\$	\$

Option Year 2					
Service Description	Estimated Monthly Average	Per Trip Rate	Customer Pay	LYNX Cost	LYNX Extended Cost
0.00 to 1.99 Mile Trip		\$	\$	\$	\$
2.00 to 3.99 Mile Trip		\$	\$	\$	\$
4.00 to 5.99 Mile Trip		\$	\$	\$	\$
6.00 to 7.99 Mile Trip		\$	\$	\$	\$
8.00 to 9.99 Mile Trip		\$	\$	\$	\$
10+ Mile Trip		\$	\$	\$	\$

Option Year 3					
Service Description	Estimated Monthly Average	Per Trip Rate	Customer Pay	LYNX Cost	LYNX Extended Cost
0.00 to 1.99 Mile Trip		\$	\$	\$	\$
2.00 to 3.99 Mile Trip		\$	\$	\$	\$
4.00 to 5.99 Mile Trip		\$	\$	\$	\$
6.00 to 7.99 Mile Trip		\$	\$	\$	\$
8.00 to 9.99 Mile Trip		\$	\$	\$	\$
10+ Mile Trip		\$	\$	\$	\$

Do you accept P-Cards for invoice payments?

Yes _____ No _____

Do you offer a discount for early payment?

_____ %

Company Name

Authorized Personnel Name (Printed)

Signature

Date

Title

EXHIBIT K
CONTRACT FORM

CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY

CONTRACT No:

For

TRANSPORTATION NETWORK COMPANY ALTERNATIVE TRANSPORTATION FOR PARATRANSIT SERVICES

THIS AGREEMENT (hereinafter, the “**Contract**”) is made as of the 24th day of May 2018 (the “**Effective Date**”) by and between:

THE CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY d/b/a LYNX (hereinafter referred to as “**LYNX**”), a body politic and corporate, created by Part II, Chapter 343, Florida Statutes, whose address is 455 North Garland Avenue, Suite 500, Orlando, Florida 32801;

and

_____ a _____ (hereinafter referred to as the “**Contractor**”), with its principal place of business located at _____, _____, _____ 32_____ and a Federal Employer Identification Number of _____.

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; and

WHEREAS, LYNX desires to obtain goods and/or services (collectively, the “**Services**”), according to the requirements in _____ (hereinafter referred to as the “**Solicitation**”) and as further described herein; and

WHEREAS, the Contractor has submitted a proposal or response in connection with the Solicitation, which has been selected by LYNX (hereinafter referred to as the “**Response**”); and

WHEREAS, the Contractor warrants to LYNX that it is qualified and duly licensed to furnish the Services in Florida and meet the obligations set forth in the Solicitation, the Response, and the documents detailing the scope of services attached hereto as **Exhibit “A”** and incorporated herein by this reference (the “**Scope of Services**”), and as hereinafter stated; and

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 (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 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.

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 _____ years commencing on the Effective Date and ending _____.

(b) **Options.** LYNX shall have the option to extend this Contract for _____ renewal terms of _____ 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 11** below.

7. PAYMENT.

- (a) **Payment.** LYNX agrees to pay the Contractor for the Services the amount provided in the Schedule of Fees attached hereto as **Exhibit "C"** 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. The Contractor will notify LYNX, in writing, when ninety percent (90%) of the Not To Exceed amount has been released.
- (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.
- (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 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) **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/DBE REQUIREMENTS.

(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.

(b) **DBE Requirements.** In the event that a Disadvantaged Business Enterprise ("**DBE**") goal has been established by the Solicitation, the Contractor covenants and agrees to comply with the requirements set forth in **Exhibit "B"** attached hereto and incorporated herein by this reference (the

“DBE Addendum”). In the event that the Contractor is in breach of the DBE Addendum, in addition to any other damages and remedies available to LYNX in accordance with applicable law, the Contracting Officer (as hereinafter defined) may issue a termination for default proceeding pursuant to **Section 12** hereof.

10. PUBLIC RECORDS. LYNX is an agency of the State and is subject to Florida’s Public Records Act, Chapter 119, Florida Statutes (the **“Public Records Act”**). It is possible that the Contractor, as a result of the Contract, may also be subject to the Public Records Act and, if so, the Contractor will promptly respond in accordance with said statute to any and all third party requests for “public records,” as that term is defined in the Public Records Act. In regard to any such request, the Contractor will promptly notify LYNX. LYNX’s determination as to the necessity of such response shall be presumptively correct.

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.

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 the Contracting Officer may in his/her absolute discretion authorize in writing) after receipt of notice from the Contracting Officer 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 the LYNX Contracting Officer or LYNX shall determine that such termination is in the best interest of LYNX. Any such termination shall be effected by delivery of a notice of termination by LYNX to the Contractor, 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 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 LYNX shall have the sole and exclusive discretion to elect which of the means set forth below that LYNX and the Contractor shall use to settle the Legal Dispute. At the sole discretion and option of LYNX, the parties shall attempt to resolve any Legal Dispute by one or more of the following means (with the exception that (c) and (d) below are mutually exclusive) and abide by the provisions thereto:

(a) **Informal Meeting Between the Parties.** If LYNX decides that the parties should initially attempt to resolve the Legal Dispute informally, then the parties agree to a meeting between the LYNX CEO and the Contractor’s CEO (or other such officer with equivalent binding authority) whereby both parties try in good faith to settle the dispute and reach an agreement.

(b) **Mediation.** If LYNX decides that the parties should attempt to resolve the Legal Dispute by mediation, then the parties agree to try in good faith to settle the dispute by mediation which 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 before resorting to arbitration or judicial action. Any such mediation shall be held in Orange County, Florida.

(c) **Arbitration.** If LYNX decides that a Legal Dispute should be resolved by arbitration, then 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.

(d) **Court of Law.** If LYNX decides that a Legal Dispute should be resolved in a court of law, then 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.

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:

(a) The Contractor's primary point of contact for daily operations of the Services pursuant to this Contract is: _____; _____; Telephone: _____; Facsimile: _____.

(b) The Contractor's primary point of contact for legal notice and authority to modify or act under this Contract is: _____; _____; Telephone: _____; Facsimile: _____.

(c) 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.

(d) As of the date hereof, LYNX designates **Bill Hearndon** (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.

(e) As of the date hereof, LYNX designates Anthony Jackson (the "**Contracting Officer**") 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.

(f) The Project Manager, Contracting Officer, 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.

15. 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) **Attorney Fees.** 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.

(c) **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.

(d) **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. 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.

(e) **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.

(f) **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.

(g) **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.

(h) **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.

(i) **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.

(j) **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.

16. 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.

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

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

[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: _____
Title: _____

Date: _____

Date: _____

Approved as to Form:

This Contract is approved as to form only for execution by LYNX, and this approval is not to be relied upon by any other person or for any other purpose.

AKERMAN SENTERFITT

By: _____

Date: _____

Name: Patrick T. Christiansen
Title: Shareholder

Exhibit "A"

SCOPE OF SERVICES

Exhibit "B"**DBE ADDENDUM**

In the event that a DBE goal has been established by the Solicitation the Contractor covenants and agrees as follows:

(a) The Contractor will comply with the DBE goal established by the Solicitation and make good faith efforts to replace any DBE subcontractor that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet such DBE goal. The Contractor shall notify Desna Hunt, 455 N. Garland Avenue, Orlando, Florida 32801; 407-254-3110 (telephone); 407-254-6372 (facsimile) (hereinafter, the "**DBE Liaison Officer**") immediately of any termination of a DBE or any DBE's inability or unwillingness to perform and provide reasonable documentation of same.

(b) Any disputes between the Contractor and any DBE subcontractor, which could reasonable result in a termination or relate to the DBE subcontractor's inability or unwillingness to perform shall be first submitted to the DBE Liaison Officer for consideration. The DBE Liaison Officer may refer the matter to non binding mediation in his or her sole and absolute discretion.

(c) The Contractor shall provide the DBE Liaison Officer with at least thirty (30) days written notice prior to instituting any legal action against a DBE subcontractor.

(d) If any DBE subcontractor is unable or unwilling to perform, the Contractor must obtain prior approval from the DBE Liaison Officer of the substitute DBE and provide copies of new or amended subcontracts, or documentation of good faith efforts.

(e) The Contractor will provide the DBE Liaison Officer with monthly updates as to the Contractor's continuing compliance with the DBE requirements set forth in the Solicitation.

(f) Contracts between the Contractor and any DBE subcontractor shall contain a valid and enforceable waiver of the DBE subcontractor's right to trial by jury.

(g) The Contractor must submit with each invoice a report of DBE expenditures (the "**DBE Expenditure Report**"), if applicable. Such report must show each DBE, the amount of such DBE's subcontract, the amount earned to date, the amount earned with respect to that invoice and the amount remaining to be earned. A legible copy of each invoice, along with the DBE Expenditure Report, must be submitted directly to the DBE Liaison Officer, c/o Central Florida Regional Transportation Authority, 455 North Garland Avenue, Orlando, Florida 32801, or such other address as may be specified by LYNX from time to time.

(h) The Contractor shall make prompt and full payment to any DBE subcontractor (including the payment of any retainage) within the later of: (x) thirty (30) days after the DBE subcontractor's work is satisfactorily completed or (y) thirty (30) days after the Contractor receives payment from LYNX for satisfactory completion of the accepted work. For purposes of this DBE Addendum, a DBE subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by LYNX. When LYNX has made an incremental acceptance of a portion of the Services, the work of a DBE subcontractor covered by that acceptance is deemed to be satisfactorily completed. The Contractor may not withhold payment to any DBE subcontractor as a result of the exercise of LYNX's rights under **Section 7(h)** of this Contract.

(i) In order to enforce the requirements set forth in paragraph 9 of this Contract as well as those set forth in this DBE Addendum, and 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, LYNX reserves the right to withhold five percent (5%) of any amounts owed to the Contractor pursuant to and in accordance with **Section 7(h)** of this Contract.

