

GENERAL TERMS AND CONDITIONS

1. TERM

A three (3) year contract for initial services will be issued upon execution of the contract, with an option for one (1) additional two (2) year extensions for completion of major studies and/or public engagement efforts during design and/or construction at the discretion of the NAIPTA Board of Directors. At NAIPTA's option a contract may be awarded for multiple years.

2. CONTRACT ORDER OF PRECEDENCE

In the event of a conflict in the provisions of the Contract, as accepted by NAIPTA and as they may be amended, the following shall prevail in the order set forth below:

- Invitation for Bid: IFB 2017-400
- General Terms and Conditions, including Federal Terms and Certifications
- Bid as submitted by Contractor

In the event the parties hereto cannot resolve a dispute or conflict, the final decision-making authority shall reside with NAIPTA CEO-General Manager.

3. TIME

Time is of the essence in the performance of the Contract. Contractor shall proceed with performance of the Work under the Contract immediately after receipt of the Notice to Proceed, and shall continuously and diligently prosecute the Work and specified portions thereof to completion on or before the time or times set forth in the Scope of Services. Contractor shall not commence work until it receives the Notice to Proceed, except as otherwise required by the Contract.

4. FUNDING

Every payment obligation of NAIPTA under this Contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Contract, this Contract may be terminated by NAIPTA at the end of the period for which funds are available. No liability shall accrue to NAIPTA in the event this provision is exercised, and NAIPTA shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

5. COMPENSATION METHODOLOGY

Contractor shall invoice upon delivery of fuel to NAIPTA. Invoices may be submitted once per month to the Fleet Manager.

Invoices shall be legible and shall contain, at a minimum, the following information:

- 1) the Contract and order number (if any);
- 2) a complete itemization of all unit prices per the Contract including quantities ordered and delivery order numbers (if any);
- 3) any discounts offered to NAIPTA under the terms of the Contract;
- 4) evidence of the acceptance of the supplies or services by NAIPTA;
- 5) unique traceable invoice number(s); and
- 6) any other information necessary to demonstrate entitlement to payment under the terms of the Contract.

Failure to provide the above critical information may result in the rejection and return of the invoice for resubmission with complete data.

Payment shall be made within 30 days after NAIPTA's receipt of a review of properly prepared invoice.

6. INSURANCE

In General. Contractor shall maintain insurance against claims for injury to persons or damage to property, arising from performance of or in connection with this Contract by the Contractor, its agents, representatives, employees or sub-contractors.

Requirement to Procure and Maintain. Each insurance policy required by this Contract shall be in effect at, or before, commencement of work under this Contract and shall remain in effect until all Contractor's obligations under this Contract have been met, including any warranty periods. The Contractor's failure to maintain the insurance policies as required by this Contract or to provide timely evidence of renewal will be considered a material breach of this Contract.

Minimum Scope and Limits of Insurance. The requirements for insurance are detailed in Exhibit A of these General Terms and Conditions.

7. NOTICES AND COMMUNICATIONS

All correspondence shall reference the Contract name. Prior to commencement of the contract, a notice to the Contractor will be effective if it is delivered to the individual who signed the Contract on behalf of Contractor at the address shown with that signature, to a corporate officer if Contractor is a corporation, to a general partner if Contractor is a partnership, or to another individual designated by Contractor in the Contract or in a written notice to NAIPTA.

Contractor shall designate a representative to represent its organization and act on its behalf. This agent shall have the authority to make binding and enforceable decisions in the name of Contractor and to accept all notices that NAIPTA desires to serve, or that are required by the Contract to be served, on the Contractor. At the start of the contract, Contractor shall advise NAIPTA, in writing, of the name, email address, and telephone number (both day and night) of such designated agent. Contractor shall notify NAIPTA promptly of any changes in this designation.

All notices and other communications concerning the contract shall be written in English and shall bear the name and/or number, if assigned, of the contract. Notices and other communications may be delivered personally, by email, or by regular, certified, or registered mail. Notices and communications are effective when received.

All notices and other communications required or permitted by the contract shall be in writing and (i) delivered by email, in person or by commercial or United States Postal Service overnight delivery service, to the addressees as named in subsequent contract executed between NAIPTA and the Contractor. All such notices or other communications shall be deemed delivered immediately if delivered by email or in person, three (3) days after deposit in the United States Postal Service first class mail if mailed, upon receipt as indicated on signed certified mail receipt and on the following Business Day if sent by overnight delivery service.

8. NOTICE OF LABOR DISPUTES

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 should give notice, including all relevant information, to the NAIPTA Fleet Manager and the NAIPTA Administrative Director.

The Contractor agrees to insert the substance of this clause, including this paragraph in any subcontract under which a labor dispute may delay the timely performance of the Contract; except that each

subcontract should provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the Sub-Contractor should immediately notify the next higher tier Sub-Contractor or the Contractor, as the case may be, of all relevant information concerning the dispute.

9. COMMUNICATIONS WITH CONTRACTOR'S STAFF

To ensure efficient communication of operational needs, NAIPTA staff shall be permitted to communicate directly with Contractor's staff regarding day to day issues for the purpose of inquiry as to factual performance issues. NAIPTA will not give Contractor's staff directions concerning performance under the Contract. Issues which affect the Contract will be communicated through the Contract Manager and the Administrative Director.

10. REPORTING

Contractor shall provide regular status reports to NAIPTA as requested.

11. RISK OF LOSS

The Contractor shall bear all loss of conforming material covered under the Contract until received by authorized NAIPTA personnel at the location designated in the Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

12. ANTI-KICKBACK AND GRATUITIES

The Contractor is prohibited from receiving any kickbacks, gratuities, payments, merchandise, equipment, supplies, services or favors in exchange for directing additional billable services to any Sub-Contractor.

13. FUNDING

Contractor is hereby notified that any contract resulting from this IFB is contingent upon funds appropriated by NAIPTA's Board of Directors and that may be appropriated in the future by federal or other sources. In the event that funding is eliminated or decreased, NAIPTA reserve the right to terminate any such contract or modify it accordingly.

14. CONTRACT ADMINISTRATION

To ensure Contract compliance, a contract administration process will be an integral part of contract. NAIPTA employees will be assigned as contract monitors. The contract administration process is an audit and feedback system and will be in addition to any of the other policies and procedures contained in the IFB. The contract administration process is a total quality management tool that empowers NAIPTA to monitor and assure contract compliance. No additional cost is anticipated to be incurred by Contractor by the presence of the contract administration process as long as contract compliance is maintained. Except for the more formalized feedback of findings, the normal Contractor/user relationship will exist per contract terms, and the contract administration process should be transparent.

15. COOPERATION

The Contractor shall fully cooperate with other NAIPTA Contractor(s)/Sub-Contractors and shall assign and carefully plan and perform its work to accommodate the work of other NAIPTA Contractor(s). The Contractor shall not intentionally commit or permit any act that will interfere with the performance of work by any other NAIPTA Contractor(s).

16. CONTRACT CLOSEOUT

At the end of the Contract period, NAIPTA will review the service to ensure all required deliverables have been met. This includes, but is not limited to submission and acceptance of all reports and inspection and inventory of all NAIPTA equipment and facilities provided to Contractor for the execution of the Contract. Contractor shall resolve any or all outstanding issues within 30 days of Contract

expiration at which time NAIPTA will issue a Notice of Contract Closure to finalize the Contract Closure between both parties. Contractor shall keep all records pertaining to the service for a minimum of three (3) years after the Contract expiration and make available said records to NAIPTA or its agents for audit, with advance notice. In the event of litigation or claims, all records will be maintained until disposition of the litigation or claim.

Contractor shall cooperate with NAIPTA and its agents in the Contract closeout process, during the Contract and after the Contract expiration date. Final payment or part thereof, may be withheld by NAIPTA until the Contractor completes or resolves all outstanding issues and Contract closeout process is complete.

17. GOVERNING LAW

The contract shall be governed by the laws of the State of Arizona without reference to conflict of law's provisions.

All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, and subsequent modifications, clarifications or amendments 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. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any NAIPTA requests that would cause NAIPTA to be in violation of the FTA terms and conditions.

The contract is funded by local government and may be funded federal transit administration funds. Contractor shall conform to all applicable FTA regulations and requirements as if all funds involved were FTA funds.

To the extent applicable, NAIPTA and Contractor each warrant compliance with any-and-all applicable governmental restrictions, regulations and rules of duly constituted authorities having jurisdiction via the contract, and all applicable employment laws, rules and regulations, including to the extent applicable, the Fair Labor Standards Act, the Walsh-Healey Act, Arizona Executive Order No. 99-4, and the Arizona Fair and Legal Employment Act, along with all laws, rules and regulations attendant thereto. Parties acknowledge that a breach of this warranty is a material breach of the contract and parties are subject to penalties for violation(s) of this provision, including termination of the contract. Contractor and NAIPTA each retain the right to inspect the documents of any-and-all Contractors, Sub-Contractors and sub-Sub-Contractors performing work and/or services relating to the contract to ensure compliance with this warranty. Any-and-all costs associated with inspections are the sole responsibility of the party subject to inspection. NAIPTA and Contractor each hereby agree to indemnify, defend and hold each other harmless for, from and against all losses and liabilities arising from any-and-all violations thereof. In addition, the parties each certify that it does not have a scrutinized business operation in either Iran or Sudan.

18. COMPLIANCE WITH LAWS AND REGULATIONS

The Contractor shall comply with all Federal, State and City laws, statutes, regulations, administrative requirements, executive orders and ordinances.

Contractor shall adhere to all applicable federal, state, and local laws, regulations, executive orders, and ordinances applicable to the Work under the Contract.

If any discrepancy or inconsistency is discovered in the Contract in relation to any such requirements of law, the Contractor shall immediately report the facts to NAIPTA, in writing.

Should changes to any such applicable federal, state, and local laws, regulations, executive orders, and ordinances occur after the date of execution of the Contract which in the Contractor's opinion require a change in the Contract Amount or time required for the performance of the Work hereunder, the Contractor shall provide written notification to NAIPTA.

19. CONTRACTOR LICENSE REQUIREMENT

Contractor shall procure all permits and licenses, and pay all charges and fees necessary and incidental to the lawful conduct of their business. Contractor shall keep themselves fully informed of existing and future Federal, State, and Local laws, ordinances and regulations, which in any manner affect the fulfillment of Contract and shall comply with the same. Contractor is advised to contact the Arizona Registrar of Contractors, Chief of Licensing to ascertain licensing requirements for a contract. Contractor shall identify which license(s), if any, the Registrar of Contractors requires for performance of the contract.

20. SEVERABILITY

Should one or more of the provisions contained in the Contract be determined to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remainder of the Contract shall be unaffected. The affected provision shall be amended or interpreted, if possible, so as to correct the deficiency and give effect to the intent of the parties.

21. DILIGENCE AND STANDARD OF CARE

The Contractor represents that it shall perform the services with the standard of care, skill and diligence expected, at the time and place of performance, of recognized professional engineering firms performing services of a similar type and nature.

Opportunity to Cure. NAIPTA may provide Contractor a reasonable opportunity to cure, at Contractor's expense, all errors and omissions which may be disclosed during Project implementation. Should Contractor fail to make such correction in a timely manner, such correction may be made by NAIPTA, and the cost thereof charged to Contractor.

22. LEGAL WORKER REQUIREMENTS

Contractor agrees that the Contractor and each Sub-Contractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with § 23-214, subsection A.

Under the provisions of A.R.S. § 41-4401, each party hereby warrants to the other that each party and all of its Sub-Contractors (if any) will comply with, and are contractually obligated to comply with, all Federal Immigration laws and regulation that relate to their employees and A.R.S. § 23-214 (A) (hereinafter "Contractor Immigration Warranty").

A Breach of the Contractor Immigration Warranty shall constitute a material breach of the contract and shall subject the breaching party to penalties up to and including termination of the contract at the sole discretion of the non-breaching party.

Each party retains the legal right to inspect the papers of any Contractor or Sub-Contractor employee of the other party who works on the contract to ensure that the Contractor or Sub-Contractor is complying with the Contractor Immigration Warranty. Each party agrees to assist the other party in regard to any such inspections.

Each party may, at its sole discretion, conduct random verification of the employment records of the other party and any of its Sub-Contractors to ensure compliance with Contractor's Immigration Warranty. Each party agrees to assist the other party in regard to any random verification performed.

A party will not be considered in materially breach of the contract or the Contractor Immigration

Warranty if the party establishes that it has complied with the employment verification provision prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214, Subsection A.

The foregoing provisions of subparagraphs 1-6 of this article must be included in any contract that a party enters into with any-and-all its Sub-Contractors who provide service under the contract or any subcontract.

Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, each party certifies that it does not have a scrutinized business operation as defined in A.R.S. §§ 35-391 and 35-393 in either Sudan or Iran.

23. IMMIGRATION REFORM AND CONTROL ACT OF 1986 (IRCA) REQUIRED

Contractor understands and acknowledges that the IRCA applies to it. Contractor agrees to comply with the IRCA on performing under the Contract and to permit NAIPTA inspection of their personnel records to verify such compliance.

24. LEGAL COMPLIANCE

To the extent applicable, NAIPTA and Contractor each warrant compliance with any-and-all applicable governmental restrictions, regulations and rules of duly constituted authorities having jurisdiction over the services provided via the Contract, and all applicable employment laws, rules and regulations, including to the extent applicable, the Fair Labor Standards Act, the Walsh-Healey Act, Arizona Executive Order No. 99-4, and the Arizona Fair and Legal Employment Act, along with all laws, rules and regulations attendant thereto. Parties acknowledge that a breach of this warranty is a material breach of the Contract and parties are subject to penalties for violation(s) of this provision, including termination of the Contract. Contractor and NAIPTA each retain the right to inspect the documents of any-and-all Contractors, and Sub-Contractor performing work and/or services relating to the Contract to ensure compliance with this warranty. All costs associated with inspections are the sole responsibility of the party subject to inspection. NAIPTA and Contractor each hereby agree to indemnify, defend and hold each other harmless for, from and against all losses and liabilities arising from any-and-all violations thereof. In addition, the parties each certify that it is not currently engaged in and agrees for the duration of the contract not to engage in a boycott of Israel as defined in A.R.S. §35-393.

25. CONFLICTS OF INTEREST

The Contractor shall not engage the services in connection with the contract of any present or former employee of NAIPTA or any Contractor thereto who was involved as a decision maker in the selection or approval processes or who negotiated and/or approved billings or contract modifications for the contract. The Contractor agrees that, to the best of its knowledge, no public or private interest exists and none shall be acquired directly or indirectly which would conflict in any manner with the performance of the contract.

Without limiting the generality of A.R.S. § 38-501 et seq., no member, officer, employee of NAIPTA or member of its governing body during his/her tenure or for three years thereafter, shall have any interest, direct or indirect, in the contract or the proceeds thereof. The contract is subject to termination pursuant to A.R.S. §38-511.

26. EQUAL EMPLOYMENT OPPORTUNITY

In connection with this procurement, the Contractor will take affirmative action to ensure that all applicants are considered for employment and that employees are treated during an application process and through employment without regard to their race, color, religion, sex, sexual orientation or domestic partnership, national origin, age, marital status, being disabled or disadvantaged, or any war-era veteran status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion,

or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and, selection for training, including apprenticeship.

The Contractor will furnish all necessary information and reports and will permit access to its books, records, and accounts by NAIPTA for the purposes of investigation to ascertain compliance with the nondiscrimination/ disadvantaged business provisions of any resultant Contract.

27. NON-DISCRIMINATION

The NAIPTA has agreed to abide by the assurance found in 49 CFR Part 26.13(a) and required by the U. S. Department of Transportation. As a condition of the Contract, the NAIPTA shall require each contract signed by the NAIPTA with Contractor, and each subcontract signed by the Contractor with a Sub-Contractor, to include the following assurance:

“The Contractor, Sub-Contractor, or sub-recipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of the Contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of the Contract which may result in the termination of the Contract or such other remedy as the NAIPTA deems appropriate.”

28. AFFIRMATIVE ACTION

Any Offeror performing under the Contract shall not discriminate against any worker, employee, or any member of the public because of race, creed, color, religion, sex or national origin, nor otherwise commit an unfair employment practice. The Offeror will take affirmative action to ensure that applicants are employed and that employees are dealt with during employment without regard to their race, creed, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrade, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Offeror further agrees that this clause will be incorporated in all subcontracts entered into with suppliers of materials or services, and all labor organizations furnishing skilled, unskilled, and union labor, or who may perform any such labor or services in connection with the Contract.

29. DBE PROGRAM

Pursuant to federal regulations NAIPTA has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. NAIPTA has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the Agency has signed an assurance that it will comply with 49 CFR Part 26. It is the policy of the Agency to ensure that DBEs, as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted Contracts.

Contractor and Sub-Contractor Obligation. Contractor and/or Sub-Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted Contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the Agency deems appropriate.

30. AMERICANS WITH DISABILITIES ACT

Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. § 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in the Contract or from activities provided for under the Contract on the basis of the disability. As a condition of accepting the contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. §35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable

to all benefits, services, programs, and activities provided by the NAIPTA through contracts with outside Contractors.

The Contractor shall be responsible for and agrees to indemnify and hold harmless the NAIPTA from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the NAIPTA as a result of the Contractor's failure to comply with the provisions of subparagraph an above.

31. NONCOMPLIANCE

In the event of the Contractor's noncompliance with the nondiscrimination/disadvantaged business provisions of any resultant Contract, NAIPTA shall impose such Contract sanctions as it may determine to be appropriate, including but not limited to withholding payments under the contract until the Contractor complies; and/or, cancellation, termination, or suspension of the contract in whole or in part.

32. PROHIBITED INTEREST

Without limiting the generality of ARS 38-501 et. seq., no member, officer, employee of NAIPTA, or member of its governing body during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any resultant contract or the proceeds thereof.

33. BREACHES AND DISPUTES

Applicability to Contracts

This section contains provisions or conditions, which will allow for administrative, contractual, or legal remedies in instances where Contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

Flow Down

The Breaches and Dispute Resolutions requirements in this section flow down to all tiers.

Disputes

Disputes arising in the performance of contract, which are not resolved by agreement of the parties, shall be decided in writing by the authorized representative of the NAIPTA Chief Executive Officer. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, Contractor mails or otherwise furnishes a written appeal to NAIPTA Chief Executive Officer. In connection with any such appeal, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of NAIPTA Chief Executive Officer shall be binding upon Contractor and Contractor shall abide by the decision.

Performance During Dispute

Unless otherwise directed by NAIPTA Chief Executive Officer, Contractor shall continue performance under Contract while matters in dispute are being resolved.

Claims for Damages

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his/her employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage and in any event in accordance with A.R.S. Title 12.

Remedies

Unless Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between NAIPTA and Contractor arising out of or relating to the Contract or its breach will be decided in a court of competent jurisdiction within the State of Arizona.

Rights and Remedies

The duties and obligations imposed by the Contract documents and the rights and remedies available there under 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 NAIPTA 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.

Confidentiality

Any proceeding initiated under this Section shall be deemed confidential to the maximum extent allowed by State Law and no Party shall make any disclosure related to the disputed matter or the outcome of any proceeding except to the extent required to seek interim equitable relief or to enforce an agreement reached or an award made hereunder. Notwithstanding the above, the Parties understand that NAIPTA is subject to Arizona's public records laws.

Additional Requirement

If at any time during the Contract period, the Contractor fails to render services of reasonably proper quality or has substantially failed to perform, keep and observe any of the terms, covenants, or conditions herein contained on the part of the Contractor to be performed, the NAIPTA may give the Contractor written notice to correct such conditions or cure such default and if such condition or default shall continue for ten (10) days after receipt of said written notice, then and in that event, Contract shall cease and expire. In the event of such termination, the Contractor shall immediately return that portion of the advance not applied as a credit against reimbursable expenses.

34. TERMINATION FOR CONVENIENCE

Performance under the contract may be terminated by NAIPTA in accordance with this clause in whole or, in part, whenever NAIPTA shall elect. Any such termination shall be effected by delivery to Contractor of a Notice of Termination specifying the extent to which performance under the contract is terminated, and the date upon which such termination becomes effective. Upon receipt of any such notice, Contractor shall, unless the notice requires otherwise:

- incur no further obligations in connection with the terminated work, and,
- on the date set forth in the notice of termination, the Contractor will stop work to the extent specified.
- terminate outstanding orders and subcontracts as they relate to the terminated work.
- settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work.

NAIPTA may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to NAIPTA. The Contractor must still complete the work not terminated by the notice of termination and may incur such obligations as are necessary to do so.

NAIPTA may require the Contractor to transfer title and deliver to NAIPTA in the manner and to the extent directed by NAIPTA:

- any completed supplies; and
- such partially completed supplies and materials, parts, as the Contractor has specifically produced or specially acquired for the performance of the terminated part of the contract.

The Contractor shall, upon direction of NAIPTA, protect and preserve property in the possession of the Contractor in which NAIPTA has an interest.

NAIPTA shall be liable only for payment under the payment provisions of the Contract for services rendered before the effective date of termination.

The Contractor shall put a similar clause in all of its Sub-Contractor agreements.

35. TERMINATION FOR DEFAULT

NAIPTA may, by written Notice of Default to the Contractor, terminate the whole or any part of contract, if Contractor fails to perform the services within the time specified herein or any extension thereof; or if Contractor fails to perform any of the other material provisions of the contract or so fails to make progress as to materially endanger performance of contract in accordance with its terms and in either of these two circumstances does not cure such failure within a period of 10 days (or such longer period as the Chief Executive Officer may authorize in writing) after receipt of notice from the Chief Executive Officer specifying such failure.

If the contract is terminated in whole or in part for default, NAIPTA may procure, upon such terms and in such manner as it may deem appropriate, supplies or services similar to those so terminated. Contractor shall be liable to the NAIPTA for any excess costs for such similar supplies or services and shall continue the performance of the contract to the extent not terminated under the provisions of this clause.

Except with respect to defaults of Sub-Contractor, Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a Sub-Contractor and if such default arises out of causes beyond the control of both Contractor and Sub-Contractor and without the fault or negligence of either of them, Contractor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the Sub-Contractor were obtainable from other sources in sufficient time to permit Contractor to meet the required delivery schedule.

Payment for completed services delivered to and accepted by NAIPTA, shall be at the contract price. NAIPTA may withhold from amounts otherwise due Contractor for such completed deliveries/services such sum as the NAIPTA determines to be necessary to protect itself against loss because of outstanding liens or claims of former lien holders.

If, after notice of termination of contract under the provisions of this clause, it is determined for any reason that Contractor was not in default under the provisions of this clause or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for the convenience of the NAIPTA.

The rights and remedies of NAIPTA provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under contract.

36. PUBLIC RECORDS/CONFIDENTIALITY

The proposal submitted by Contractor becomes the exclusive property of NAIPTA. SOQs will not be publicly opened. SOQs and evaluations will be kept confidential throughout the procurement process. Subject to applicable laws and NAIPTA procurement policies, financial information required to be submitted to establish financial responsibility and other financial data shall be handled as confidential data and utilized on a "need-to-know" basis for SOQ evaluation. Reasonable efforts will be made to avoid disclosure except as necessary for evaluation.

Offerors shall specifically designate and clearly label "CONFIDENTIAL" any-and-all materials, including financial data, or portions thereof which they deem to contain trade secrets or other proprietary information, which is exempt from public inspection and copying. The Offeror shall provide the legal basis for the exemption to NAIPTA upon request. If a SOQ does not clearly identify the "CONFIDENTIAL" portions, NAIPTA will not notify the Offeror that its SOQ will be made available per a Public Records

Request. If a request is made for disclosure of material or any portion marked “CONFIDENTIAL”, NAIPTA shall determine whether the identified information is confidential pursuant to the Arizona Revised Statutes §36-664 and the NAIPTA Procurement Policies and Procedures. If required by law or by an order of a court, NAIPTA may be required to disclose such records or portions thereof, including without limitation those so marked. If NAIPTA determines that the material is not exempt and may be disclosed, NAIPTA will notify the Offeror of the request and allow the Offeror ten (10) working days to take appropriate action. If the Offeror fails or neglects to take such action within said period, the Agency may release the portions of the SOQ deemed subject to disclosure. To the extent that the Agency withholds from disclosure all or any portion of the Offeror’s documents at Offeror’s request, Offeror shall agree to fully indemnify, defend and hold the Agency harmless from all damages, penalties, attorneys’ fees and costs the Agency incurs related to withholding information from public disclosure. By submitting a SOQ, the Offeror consents to the procedure outlined in this paragraph and shall have no claim against the Agency by reason of actions taken under this procedure.

37. PUBLICITY AND ADVERTISING

The Contractor, its Sub-Contractors and suppliers shall not publish, nor cause to be published any advertisement or other material, including news releases and technical papers, regarding the subject matter of the contract at any time without the prior written authorization of NAIPTA. The Contractor shall not display any signs, posters, or any other advertising matter in or on the Work or on or around the Work Site other than those prescribed by the Agreement or by law without the prior written authorization of NAIPTA. In addition, advertising or other copy mentioning NAIPTA or quoting the opinions of any of its employees shall not be released before such copy is approved in writing by NAIPTA before release. Any material proposed for publication must be factual and not state or imply endorsement by NAIPTA of any firm, service, or product.

38. CODE OF ETHICS AND WRITTEN STANDARDS OF CONDUCT

The Contractor understands that NAIPTA is governed by its Code of Ethics. Copies of Code of Ethics can be obtained from NAIPTA.

NAIPTA maintains its own written code of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer, agent, immediate family member, or Board member of NAIPTA will participate in the selection, award, or administration of a contract supported by FTA funds if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when any of the following has a financial or other interest in the firm selected for award: 1) The employee, officer, agent, or Board member, 2) Any member of his immediate family, 3) His partner, or 4) An organization that employs, or is about to employ, any of the above. NAIPTA’s officers, employees, agents, or Board members will neither solicit nor accept gifts, gratuities, favors, or anything of monetary value from Contractor, potential Contractor, or parties to sub agreements. NAIPTA has minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by state or local law or regulations, such standards of conduct provide for penalties, sanctions, or other disciplinary action for violation of such standards by NAIPTA’s officers, employees, or agents, or by Contractor or their agents.

39. DRUG AND ALCOHOL FREE WORKPLACE

If specified within the scope of work the Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 655 et. seq., and permit any authorized representative of the United States Department of Transportation or its operating administrations, the any Oversight Agency of Arizona, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The Contractor agrees further to certify annually its compliance with Parts 655 and to submit the

Management Information System (MIS) reports before March 15 to NAIPTA. 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.

40. INDEPENDENT CONTRACTOR

Under the terms of the contract, the Contractor is an independent Contractor and has and retains full control and supervision of the services performed by and full control over the employment and direct compensation and discharge of all persons, other than NAIPTA employees, assisting in the performance of its services hereunder. The Contractor agrees to be solely responsible for all matters relating to wages, hours of work, working conditions, and payment of employees, including compliance with social security, all payroll taxes and withholdings, unemployment compensation, and all other requirements relating to such matters.

The Contractor agrees to be responsible for its own acts and those of its subordinates, employees and all Sub-Contractors, if any, during the life of the contract. If the Contractor is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

NAIPTA and the Contractor acknowledge that although NAIPTA shall oversee and monitor the Contractor, NAIPTA will not control the day-to-day operations of the Contractor or any of its Sub-Contractors. NAIPTA shall not determine means, methods, techniques, procedures or safety precautions and programs in connection with the Contractor's and sub Contractor's performance under the contract, which shall solely be the responsibility and obligation of the Contractor.

Improper Exercise of Authority.

It is further understood and agreed that the Contractor shall not in any way exercise any portion of the authority or powers of NAIPTA and shall not make a contract or commitment, or in any way represent itself as an agent of NAIPTA beyond the scope of the contract unless expressly authorized, in writing, by NAIPTA.

Covenants Against Contingent Fees.

The Contractor warrants that it has not employed or retained any company or person, to solicit or secure the contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the contract. The preceding sentence does not apply to Contracts entered into with Sub-Contractors for the performance of Professional Services as permitted under the contract. For breach or violation of this warranty, NAIPTA shall have the right to annul the contract without liability, or in its discretion, to deduct from the Contract Price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

41. PRIME CONTRACTOR RESPONSIBILITIES

The selected Contractor will be required to assume responsibility for all services offered in their proposal whether or not they produce them. Further, NAIPTA will consider the selected Contractor to be the sole point of contact with regard to contractual matters.

42. INSPECTION OF WORK

All work (which term in this section includes services performed, and material utilized in the performance of services) shall be subject to inspection and test by NAIPTA to the extent practicable at all times and places during the term of the contract. NAIPTA shall have the right to enter the Contractor's premises for the purpose of inspecting and auditing all data and records which pertain to the

Contractor's performance under the contract. NAIPTA and its agents of their choice shall also have the right to enter the Contractor's premises for the purpose of inspecting vehicles owned by the Contractor that are used to provide service under the contract.

If any work performed hereunder is not in conformity with the requirements of the contract, NAIPTA shall have the right to require the Contractor to perform the work again in conformity with such requirements at the Contractor's expense. When the work to be performed is of such a nature that the defect cannot be corrected by re performing the work, NAIPTA shall have the right to (1) require the Contractor to immediately take all necessary steps to ensure future performance of the work in conformity with the requirements of the contract; and (2) reduce the contract price to reflect the reduced value of the work performed. In the event the Contractor fails promptly to perform the work again or take necessary steps to ensure future performance of the work in conformity with the requirements of the contract, NAIPTA shall have the right to have the work performed in conformity with the contract requirements and charge the Contractor any costs to NAIPTA that are directly related to the performance of such work, or to terminate the contract for default.

No completion of any audit or inspection by NAIPTA constitutes a representation that operations or equipment are in compliance with any federal, state or local laws. Such responsibility is uniquely that of the Contractor.

43. AUDIT AND INSPECTION OF RECORDS

The Contractor shall permit the authorized representative of the United States Department of Transportation and of the Comptroller General of the United States to inspect and audit all data and records of the Contractor relating to its performance and its subcontracts, if any, under the contract with which Federal funds are used from the date of the contract through and until the expiration of three years after completion of the contract. The inspection and audit provided in this section does not include an audit of the manufacturer's cost and/or profit, with the exception of single bid or sole source situations.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The Contractor agrees to maintain all books, records, accounts and reports required under the contract for a period of not less than three years after the date of termination or expiration of the contract, except in the event of litigation or settlement of claims arising from the performance of the contract, in which case Contractor agrees to maintain same until NAIPTA, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.42(b).

44. FORCE MAJEURE

Neither party shall be responsible for delays or failures in performance resulting from events beyond their control. Such events shall include, but not be limited to, acts of God, riots, acts of war, epidemics, unusual and unavoidable delays in delivery, unusually severe weather, governmental acts or omissions of governmental entities, fire, communication line failures, or power failures. Based upon any such event, Contractor may be entitled to a Change Order for extra time and cost, but shall not be entitled to an increase in Fee.

45. LOBBY PROHIBITION

Pursuant to Arizona Revised Statutes 41-1233 and NAIPTA Policy, no person, Contractor, or entity of any sort, public or private shall:

- Retain or employ another person to promote or oppose legislation for compensation contingent in whole or in part upon the passage or defeat of any legislation, or the approval or veto of any legislation by the governor, and
- Accept employment or render service for compensation on a contingent basis.

- Lobby the legislature, the NAIPTA Board, or any other public body or official for compensation within one year after the person ceases to be a member of the Senate or House of Representatives.
- In any manner seek to improperly influence the vote or decision of any member of the legislature, NAIPTA Board or Committee, or any other public body, official, or NAIPTA employee, through any means.

46. HEADINGS

The subject headings of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any provisions of this Agreement.

47. INTERPRETATIONS

To the extent permitted by the context in which used, (a) words in the singular number shall include the plural, words in the masculine gender shall include the feminine and neuter, and vice versa; (b) reference to “persons” or “parties” in this Agreement shall be deemed to refer to natural persons, corporations, general partnerships, limited partnerships, trusts and other entities; (c) (unless specified otherwise) references to paragraphs, sections or Sections are to paragraphs, sections or Sections of this Agreement; and (d) any reference to “day” in this Agreement shall be deemed to refer to calendar days unless this Agreement expressly requires Business Days.

Exhibits to General Terms and Conditions

EXHIBIT A: INSURANCE REQUIREMENTS

INSURANCE REQUIREMENTS

- A. Contractor shall obtain and submit to NAIPTA before any Services are performed, certificates from the Contractor's insurance carriers indicating the presence of coverages and limits of liability as set forth in the Contract Documents, but in no event shall the coverages and limits be less than those specified as follows:

1. Workers' Compensation:

Coverage A. Statutory Benefits.

Coverage B. Employer's Liability.

Bodily Injury by accident	\$1,000,000 each accident
Bodily Injury by disease	\$1,000,000 policy limit
Bodily Injury by disease	\$1,000,000 each employee

Coverage must include a Waiver of Subrogation endorsement.

Where applicable, U.S. Longshore and Harbor Workers Compensation Act Endorsement shall be attached to the policy.

2. Commercial Auto Coverage:

Auto Liability limits of not less than \$1,000,000 each accident, combined Bodily Injury and Property Damage Liability insurance. Certificate to reflect coverage for "Any Auto" or "All Owned, Scheduled, Hired and Non-Owned".

If the Contract Documents require Contractor to remove and haul hazardous waste from the Project site, or if the Project involves such similar environmental exposure, pollution liability coverage equivalent to that provided under the ISO Pollution Liability-Broadened Coverage for Covered Autos Endorsement shall be provided, and the Motor Carrier Act Endorsement (MCS 90) shall be attached.

3. Commercial General Liability:

Each Occurrence Limit	\$1,000,000
Personal Injury/Advertising Injury Limit	\$1,000,000
Products/Completed Operations Aggregate Limit	\$1,000,000
General Aggregate Limit (other than Products/Completed Operations)	\$2,000,000

Coverage must include a Waiver of Subrogation endorsement.

Both policy forms must include:

- A) Premises and Operations coverage with no explosion, collapse or underground damage (XCU) exclusions.
- B) Products and Completed Operations coverage. Contractor agrees to maintain this coverage for a minimum of 10 years following completion of the Contractor Work and to continue to name NAIPTA as an Additional Insured for the entire 10-year period.
- C) Blanket contractual coverage for the indemnity/hold harmless agreements assumed in this Subcontract and in the Prime Contract. Any Employee Exclusion will be deleted.
- D) Broad Form Property Damage coverage, including completed operations or its equivalent.

- E) An endorsement naming NAIPTA, each of the Partners, and any other party required to be named as an additional insured under the Contract Documents, and any other parties in interest as Additional Insured(s) under the coverage specified under Comprehensive General Liability or Commercial General Liability. The endorsement shall be on ISO forms CG2010B 11/85 or CG2026 11/85, or equivalent. Additional Insured Endorsements on both ISO forms CG2010 10/01 and CG2037 10/01 are acceptable. ISO forms CG2010A or CG2010B 10/93 and/or 3/97, or their equivalent, ARE NOT ACCEPTABLE. Any form that does not grant additional insured status for both the ongoing operations and products/completed operations coverages IS NOT ACCEPTABLE.
- F) An endorsement stating: “Such coverage as is afforded by this policy for the benefit of the additional insured(s) is primary and any other coverage maintained by such additional insured(s) shall be non-contributing with the coverage provided under this policy.”
- G) Coverage must be on an “Occurrence” form. “**Claims Made**” and “**Modified Occurrence**” forms are not acceptable.
- H) Coverage to include general aggregate limits on a “per project” basis.

4. Excess Liability:

Umbrella Liability to extend the above liability coverages and limits to reach a total combined limit of:

Each Occurrence	\$5,000,000
Aggregate	\$5,000,000

5. Errors & Omissions Liability

(Applicable any design/engineering services are part of Work)

Per Occurrence/Aggregate	\$3,000,000-5,000,000
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Note: higher coverage limits may be required under the Contract Documents, in which case such higher limits shall apply.

Any claims made retro-active data shall be clearly shown on the Certificate of Insurance and shall be effective prior to the commencement of any work

Coverage provided must have no exclusion for design-build projects. Designer must provide evidence of coverage for nine (9) years beyond completion of the Project in the form of a renewal insurance policy certificate and/or the purchase of an extended reporting period endorsement should the policy be cancelled or non-renewed

6. Pollution Legal Liability \$1,000,000

(Applicable as to any pollutants or hazardous waste exposures as part of Work)

Contractor shall maintain insurance covering losses caused by pollution conditions (including mold) that arise from the Work.

7. Other Requirements

- A) All policies must contain an endorsement affording an unqualified thirty (30) days notice of cancellation to the additional insured(s) in the event of cancellation, non-renewal or material reduction in coverage.

- B) All policies must be written by insurance companies whose rating, in the most recent Best's Rating Guide, is not less than A- VII. All coverage forms must be acceptable to NAIPTA.
 - C) Certificates of Insurance with the required endorsements evidencing the required coverages must be delivered to the NAIPTA prior to commencement of any Work. Failure of NAIPTA to demand such certificate or other evidence of full compliance with these insurance requirements or failure of NAIPTA to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance. NAIPTA shall have the right, but not the obligation, to prohibit Contractor or any of its sub-Contractors from entering the Project site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by NAIPTA.
 - D) Contractor shall be responsible to satisfy any deductible or self-insured retention with respect to any of the coverages required by the Contract Documents.
 - E) NAIPTA reserves the right, in its sole discretion, to require higher limits of liability coverage if, in NAIPTA's opinion, operations by or on behalf of Contractor create higher than normal hazards and, to require Contractor to name additional parties in interest to be Additional Insureds.
 - F) In the event that rental of equipment is undertaken to complete and/or perform the Work, Contractor agrees that it shall be solely responsible for such rental equipment. Such responsibility shall include, but not be limited to, theft, fire, vandalism and use by unauthorized persons.
 - G) In the event that materials or any other type of personal property ("personal property") is acquired for the Project or delivered to the Project site, Contractor agrees that it shall be solely responsible for such property until it becomes a fixture on the Project, or otherwise is installed and incorporated as a final part of the Project. Such responsibility shall include, but not be limited to, theft, fire, vandalism and use by unauthorized persons.
 - H) Contractor shall maintain "all risk" insurance, on a replacement cost basis, covering loss or damage to personal property (for which it has title and/or risk of loss) which is to become a final part of the Project, during any time such personal property is in transit and while stored or worked upon away from the Project site. NAIPTA shall be named as additional insured under such insurance.
- B. NAIPTA and Contractor waive all rights against each other and against NAIPTA and the Partners for damages caused by fire or other perils covered by Contractor's Risk or any other property insurance, except such rights as they may have to the proceeds of such insurance. Such insurance may be subject to an amount deductible from the sums otherwise payable thereunder and the burden of such deduction shall be borne by the party receiving the direct benefit of such insurance.
- C. Any additional provisions specific to the Project are attached. In the event of any conflict between the attached terms and the terms of this Exhibit, the Contractor shall comply with the more stringent provisions.

NAIPTA CERTIFICATIONS

Pg 1 of 2

FORM A: DISCLOSURE OF RESPONSIBILITY STATEMENT

1. List any convictions of any person, subsidiary, or affiliate of the company, arising out of obtaining, or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
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2. List any convictions of any person, subsidiary, or affiliate of this company for offenses such as embezzlement, theft, fraudulent schemes, etc. or any other offenses indicating a lack of business integrity or business honesty which affects the responsibility of the contractor. (See procurement policy section 7.2 for types of offenses.)
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3. List any convictions or civil judgments under state or federal antitrust statutes.
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4. List any violations of contract provisions such as knowingly (without good cause) to perform, or unsatisfactory performance, in accordance with the specifications of a contract.
-

5. List any prior suspensions or debarments by any governmental agency.
-

6. List any contracts not completed on time.
-

7. List any penalties imposed for time delays and/or quality of materials and workmanship.
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8. List any documented violations of federal or state labor laws, regulations, or standards, occupational safety and health rules.
-

NAIPTA CERTIFICATIONS (CONT'D)

Pg 2 of 2

FORM A: DISCLOSURE OF RESPONSIBILITY STATEMENT

I, _____, as _____
Name of individual Title & Authority

Of _____, declare under oath that the above statements, including
(Company Name

any supplemental responses attached hereto, are true.

Signature

NOTARY:

State of _____

County of _____

Subscribed and sworn to before me on this _____ day of _____,

201__ by _____ representing him/herself to be

_____ of the company named herein.

Notary public

My Commission expires:

NAIPTA CERTIFICATIONS (CONT'D)

FORM B: NON-COLLUSION AFFIDAVIT

_____ being first duly sworn deposes and says that she/he is
(Name of Company Representative)

_____ of _____
(Title) (Name of Company)

and that pursuant to Section 112 (C) of Title 23 USC, he/she certifies as follows: That either he/she nor anyone associated with the said _____.
(Company/Consultant Name)

has, directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free and open competition for the response for:

IFB 2017-200 Bulk Fuel

NOTARY:

State of _____

County of _____

Subscribed and sworn to before me on this _____ day of _____,

201__ by _____ representing him/herself to be

_____ of the company named herein.

Notary public

My Commission expires:

Federal Terms and Certifications

Federal Transit Administration (FTA) Required Terms and Certifications

This procurement is being funded, in whole or in part, with federal funds through Federal Transit Administration (FTA). As consequence of that funding, the following FTA mandated provisions are included in this proposal.

1. No Obligation by the Federal Government

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

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

The Contractor acknowledges and agrees that

- a) The provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the 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 this Contract or the FTA assisted project for which work under this Contract 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.
- b) If the Contractor 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 Federal 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.
- c) The Contractor shall include the above two (2) clauses in each subcontract financed in whole or in part with federal assistance provided by FTA and each such clause shall not be modified, except to identify the subcontractor who will be subject to the provisions.

3. Access to Records

- a) In accordance with 49 C.F.R. 18.36(i), the Contractor shall provide NAIPTA, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. Pursuant to 49 C.F.R. 633.17, the Contractor shall provide the FTA Administrator or his authorized representatives including any PMO contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
- b) Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to

- copy such excerpts and transcriptions as are reasonably needed.
- c) Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case the Contractor agrees to maintain same until NAIPTA, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
 - d) FTA does not require the inclusion of these requirements in subcontracts.

4. Access to Third Party Contract Records

The following access to records requirements may apply to this Contract:

Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his/her authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

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

The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

5. Federal Changes

The 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 Contract (the FTA Master Contract) between NAIPTA and the 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. Civil Rights (> \$10,000)

The following requirements apply to this Contract:

- a) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor shall comply with applicable Federal implementing regulations and such other implementing requirements FTA may issue.
- b) Equal Employment Opportunity - The following equal employment opportunity requirements apply

to the underlying contract:

- i) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq. , (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor shall comply with any implementing requirements FTA may issue.
 - ii) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor shall comply with any implementing requirements FTA may issue.
 - iii) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor shall comply with any implementing requirements FTA may issue.
- c) The Contractor shall include these requirements in each subcontract financed in whole or in part with federal assistance provided by FTA, modified only if necessary to identify the affected parties.
 - d) For assistance with a contract clause incorporating the requirements of the new Disadvantaged Business Enterprise rule in 49 CFR Part 26, contact the FTA HelpLine at www.ftahelpline.com.

7. Americans with Disabilities Act

Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. § 35.101 et seq., the Consultant understands and agrees that it shall not cause any individual with a disability to be excluded from participation in the Contract or from activities provided for under the Contract on the basis of the disability. As a condition of accepting the contract, the Consultant agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. §35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the NAIPTA through contracts with outside Consultants.

The Consultant shall be responsible for and agrees to indemnify and hold harmless the NAIPTA from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the NAIPTA as a result of the Consultant's failure to comply with the provisions of subparagraph an above.

8. Termination (> \$10,000)

- a) Termination for Convenience. NAIPTA may terminate this Contract, in whole or in part, at any time by written notice to the Contractor when it is in NAIPTA's sole and unfettered opinion, it is in NAIPTA's best interest to do so. 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 NAIPTA for payment. If the Contractor has any property in its

possession belonging to NAIPTA, the Contractor shall account for the same, and dispose of it in the manner NAIPTA directs.

- b) Termination for Default (Construction) NAIPTA may terminate this Contract if: (a) Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this Contract or any extension; (b) if the Contractor fails to complete the work within this time; or (c) if the Contractor fails to comply with any other provisions of the Contract. Termination shall be effected by serving a notice of termination upon Contractor setting forth the manner in which the Contractor is in default. In this event, NAIPTA 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 NAIPTA 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 NAIPTA in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages if: (a) the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor; or, (b) the Contractor within ten (10) days from the beginning of any delay, notifies NAIPTA in writing of the causes of delay. If in the judgment of NAIPTA the delay is excusable, the time for completing the work shall be extended. The judgment of NAIPTA shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

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 NAIPTA.

Opportunity to Cure: In case of a termination for breach or default, NAIPTA may, in its sole and unfettered discretion, allow the Contractor ten (10) calendar days within which to cure the defect. Should a cure period be granted, the notice of termination will state the time period within which cure is permitted together with other appropriate conditions.

If the Contractor fails to remedy the breach or default of any of the terms, covenants, or conditions of this Contract to NAIPTA's satisfaction within ten (10) calendar days after receipt by the Contractor of written notice from NAIPTA setting forth the nature of said breach or default, then, and in that event, NAIPTA shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude NAIPTA from also pursuing all available remedies against Propose and its sureties for said breach or default.

Waiver of Remedies for any Breach: Should NAIPTA elect to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by NAIPTA shall not limit NAIPTA's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

9. Incorporation of FTA Terms (Form A)

The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in the preceding contract provisions. **All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, 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 requests of the City that would cause NAIPTA to be in violation of the FTA terms and conditions.

10. Suspension and Debarment (>\$25,000) (Form B)

The Contractor certifies 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 CFR 29.945]. The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

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

11. Lobbying (> \$100,000) (Form C)

- a) Contractor certifies that no federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of NAIPTA, any federal 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.
- b) If any funds other than federally appropriated funds have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of NAIPTA, any federal 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 Contractor shall complete and submit Standard Form LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.
- c) The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- d) 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. A3801, et.seq., apply to this certifications and disclosure if any.
- e) 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 Section 1352, Title 31, United States Code. Any person who fails to file the required certification shall be subject to a civil penalty or not less than \$10,000, and not more than \$100,000, for each such failure. See Attachment 49 CFR Part 20 Lobbying Certification.

12. Disadvantaged Business Enterprises (Forms D, E, F, & G)

- a) This Contract is subject to the requirements of Title 49, CFR, Part 26, and participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The agency’s overall goal for DBE participation is 1% with 1% race neutral goal. A contract goal has not been established for this procurement.
- b) The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of the DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or other such remedy as NAIPTA deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFP 26.13(b)).
- c) Contractor agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of Contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that Disadvantaged Business Enterprises have the maximum opportunity to

compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT assisted contracts. The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

- d) The Contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from NAIPTA. The Contractor must promptly notify NAIPTA, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of NAIPTA.

13. Buy America (> \$100,000) (Form H)

The Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR 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 CFR 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 purchase (currently less than \$100,000) made with capital, operating, or planning funds.

The Contractor, as a condition of responsiveness, shall submit with the proposal a completed Buy America certification form, Attachment 49 CFR 661.6, if applicable.

14. Disputes (> \$100,000)

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the Contract Specialist (Lead) or his designee. This decision shall be final and conclusive unless within ten (10) calendar days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Public Transit Director or the Director's designee. 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 Public Transit Director or the Director's designee shall be binding upon the Contractor and the Contractor shall abide by the decision.

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

Claims for Damages: Should either party to this Contract suffer injury or damage to person or property because of any act or omission of the other party or of any of his employees, agents or others for whose act it is legally liable, a claim for damages therefore shall be made in writing to such other party within five (5) calendar days after the first observance of such injury or damage.

Remedies: Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between NAIPTA and the Contractor arising out of or relating to this Contract or its breach will be decided by arbitration if the parties mutually agree, or in a State court of competent jurisdiction within the State of Arizona.

Rights and Remedies: The duties and obligations imposed by the Contract documents and the rights and remedies available there under 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 NAIPTA or the Contractor shall constitute a waiver of any right or duty afforded any of them under this Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach there under, except as may be specifically agreed upon in writing.

15. Clean Air (> \$100,000)

The Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor shall report each violation to NAIPTA and understands and agrees that NAIPTA will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor shall also include these requirements in each subcontract exceeding \$100,000 financed in whole or part with federal assistance provided by FTA.

16. Clean Water (> \$100,000)

The Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. Contractor shall report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor shall also include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

17. Recycled Products

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

18. Cargo Preference (for all ocean vessel transportation)

Contractor shall: (a) 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 Contract, to the extent such vessels are available at fair and reasonable rates for United States - Flag commercial vessels; (b) furnish within twenty (20) working days following the thirty (30) working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "onboard" 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, D.C. 20590, and to the FTA recipient (through the Contractor in the case of a subcontractor's bill-of-lading); and, (c) include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

19. Fly America (for all foreign air transportation)

Contractor shall comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR 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. If a foreign air carrier was used, Contractor shall submit 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. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

20. Davis-Bacon and Copeland Anti-Kickback Acts (construction > \$2,000)

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 CFR 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 CFR 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 (1)(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)
 - (1) 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:
 - (a) Except respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (b) The classification is utilized in the area by the construction industry; and
 - (c) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
 - (d) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.
 - (2) 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.
 - (3) 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.

- (4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this 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)
 - (1) 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:
 - (a) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (b) The classification is utilized in the area by the construction industry; and
 - (c) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
 - (2) 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.
 - (3) 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.
 - (4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the

classification.

- b) **Withholding** - NAIPTA 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 this 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, NAIPTA 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 CFR 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)
- (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the NAIPTA 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 CFR 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.
- (2) 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:
- (a) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;
- (b) 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 CFR part 3;
- (c) 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.
 - (3) 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 (a)(3)(ii)(B) of this section.
 - (4) 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.
- ii) The contractor or subcontractor shall make the records required under paragraph (A)(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 CFR 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 CFR 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 CFR part 30.
- e) **Compliance with Copeland Act requirements** - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- f) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 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 CFR 5.5.
- g) **Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 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 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
- i) **Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR 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 this 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 CFR 5.12(a)(1).
 - ii) No part of this 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 CFR 5.12(a)(1).
 - iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.
- k) **Contract Work Hours and Safety Standards Act (> \$100,000)**
 - i) 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 base rate of pay for all hours worked in excess of forty hours in such workweek.

- ii) Violation; liability for unpaid wages; liquidated damages – In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any subcontractor responsible therefore 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 (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- iii) Withholding for unpaid wages and liquidated damages – NAIPTA 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 prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- iv) Subcontracts – The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

21. Seismic Safety

The 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 CFR 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 this 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.

22. Energy Conservation

Contractor shall comply with mandatory standards and policies relating to energy efficiency that are contained in the State of Arizona Energy Conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

23. Conformance with Intelligent Transportation System (ITS) Architecture

This project will receive a systems engineering analysis to ensure it conforms to the National ITS Architecture and complies with the locally-approved plan for regional ITS architecture.

24. Notification of Federal Participation

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

25. Declaration Regarding Material Assistance / Non-Assistance to a Terrorist Organization (Form I)

This form serves as a declaration of the provision of material assistance to a terrorist organization or organization that supports terrorism as identified by the U.S. Department of State Terrorist Exclusion

List (see the Arizona Homeland Security Division website for a reference copy of the Terrorist Exclusion List).

Any answer of “yes” to any question, or the failure to answer “no” to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided. Failure to disclose the provision of material assistance to such an organization or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree.

For the purposes of this declaration, “material support or resources” means currency, payment instruments, other financial securities, funds, transfer of funds, and financial services that are in excess of one hundred dollars, as well as communications, lodging, training, safe houses, valid documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

Exhibit C Forms: Federal Certifications

Forms: Federal Certifications

Form A: Overall Federal Regulation Compliance

All contractual provisions required by State and Federal Transit Administration (FTA), as set forth in FTA Circular 4220.1F are hereby incorporated into this contract by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, or fail to perform any act, or refuse to comply with any NAIPTA requests which would cause NAIPTA to be in violation of the FTA terms and conditions.

Vendor Representative

Date

Vendor

Forms: Federal Certifications

Form B: Debarment and Suspension Certification

(Lower Tier Covered Transaction) (Attachment 49 CFR 29 Subpart C)

(To be submitted with a bid or Offer exceeding the small purchase for Federal assistance programs, currently \$25,000.)

The prospective lower tier participant (Offeror) certifies, by submission of this Offer, that neither it nor its “principals” as defined at 49 C.F.R. § 29.105(p) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

If the prospective lower tier participant (Offeror) is unable to certify to the statement above, it shall attach an explanations, and indicate that it has done so, by placing an “X” in the following space _____.

THE BIDDER OR OFFEROR, _____ CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE BIDDER OR OFFEROR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.

_____ Signature of the Bidder or Offeror’s Authorized Official

_____ Name & Title of the Bidder or Offeror’s Authorized Official

_____ Date

Forms: Federal Certifications

Form C: Lobbying Certification (Attachment 49 CFR 20)

(To be submitted with a bid or Offer exceeding \$100,000)

The Bidder or Offeror certifies, to the best of its knowledge and belief, that:

1. No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of a Federal department or agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. 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 thereof.

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, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed 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 failure.

THE BIDDER OR OFFEROR, _____ CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE BIDDER OR OFFEROR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.

_____ Signature of the Bidder or Offeror’s Authorized Official

_____ Name & Title of the Bidder or Offeror’s Authorized Official

_____ Date

Forms: Federal Certifications

Form D: Disadvantaged Business Enterprises Compliance Certification

(Attachment 49 CFR Part 26)

All vendors are required to complete and certify compliance with requires of 49 CFR Part 26 Participation by DBE in DOT Programs.

DBE COMPLIANCE CERTIFICATION

I hereby certify that the Offeror has complied with the requirements of 49 CFR Part 26, Participation by Disadvantaged Business Enterprises in DOT Programs.

Signature of the Bidder or Offeror's Authorized Official

Name & Title of the Bidder or Offeror's Authorized Official

Date

Forms: Federal Certifications

Form E: Disadvantaged Business Enterprises Certification

Pg 1 of 2

(Attachment 49 CFR Part 26)

Complete this section only if it applies to your firm.

AFFIDAVIT OF CERTIFICATION

This form must be signed and notarized for each owner upon which disadvantaged status is relied.

A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PENALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.

I _____ (full name printed), swear or affirm under penalty of law that I am _____ (title) of applicant Firm _____ (firm name) and that I have read and understood all of the questions in this application and that all of the foregoing information and statements submitted in this application and its attachments and supporting documents are true and correct to the best of my knowledge, and that all responses to the questions are full and complete, omitting no material information. The responses include all material information necessary to fully and accurately identify and explain the operations, capabilities and pertinent history of the named firm as well as the ownership, control, and affiliations thereof.

I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application, and I authorize such agency to contact any entity named in the application, and the named firm's bonding companies, banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility.

I agree to submit to government audit, examination and review of books, records, documents and files, in whatever form they exist, of the named firm and its affiliates, inspection of its places(s) of business and equipment, and to permit interviews of its principals, agents, and employees. I understand that refusal to permit such inquiries shall be grounds for denial of certification.

If awarded a contract or subcontract, I agree to promptly and directly provide the prime contractor, if any, and the Department, recipient agency, or federal funding agency on an ongoing basis, current, complete and accurate information regarding (1) work performed on the project; (2) payments; and (3) proposed changes, if any, to the foregoing arrangements.

I agree to provide written notice to the recipient agency or Unified Certification Program (UCP) of any material change in the information contained in the original application within 30 calendar days of such change (e.g., ownership, address, telephone number, etc.).

I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or revocation of certification; suspension and debarment; and for initiating action under federal and/or state law concerning false statement, fraud or other applicable offenses.

Forms: Federal Certifications

Form E: Disadvantaged Business Enterprises Certification (cont'd)

(Attachment 49 CFR Part 26)

I certify that I am a socially and economically disadvantaged individual who is an owner of the above-referenced firm seeking certification as a Disadvantaged Business Enterprise (DBE). In support of my application, I certify that I am a member of one or more of the following groups, and that I have held myself out as a member of the group(s) (circle all that apply):

- Female
- Black American
- Hispanic American
- Asian- Pacific American
- Subcontinent Asian American
- Native American
- Other (specify) _____.

I certify that I am socially disadvantaged because I have been subjected to racial or ethnic prejudice or cultural bias, or have suffered the effects of discrimination, because of my identity as a member of one or more of the groups identified above, without regard to my individual qualities.

I further certify that my personal net worth does not exceed \$750,000, and that I am economically disadvantaged because my ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially and economically disadvantaged.

I declare under penalty of perjury that the information provided in this application and supporting documents is true and correct.

Executed on _____
(Date)

Signature _____
(DBE Applicant)

NOTARY CERTIFICATE:

Forms: Federal Certifications

Form F: Disadvantaged Business Enterprises Certification

NAIPTA (Individual) Intended Participation Affidavit

DISADVANTAGED BUSINESS ENTERPRISE INTENDED PARTICIPATION AFFIDAVIT

Procurement Number: _____

Procurement Name: _____

Directions:

1. An officer of the contractor(s) must sign this form.
2. A separate affidavit must be submitted for each proposed DBE.
3. All partial bid items must be fully explained. If not, the DBE will be assumed responsible for the entire item.
4. The affidavits must be submitted at the time of bid.

Name of DBE: _____

DBE Scope Items List items separately. Partial items must be explained.	Item Amount Not to exceed total bid amount.	DBE Credit (\$)
Total		\$

Contractor Certification: I certify that:

- My company has accepted a proposal from the DBE named above.
- My company has notified the proposed DBE of the contracted DBE commitment and this agreement is to be performed in accordance with DBE provisions of this contract.
- My company’s use of the proposed DBE for the items of work listed above is a condition of the contract award.
- My company will invite the proposed DBE to attend the preconstruction meeting.
- My company is required to make sufficient reasonable efforts to subcontract either the same or other work to an alternative certified DBE equal to the amount to attain the DBE commitment if a certified DBE is unable or unwilling to perform for work any part of the intended.
- I understand that failure to comply with the information shown on this form will be considered grounds for contract sanctions.

I declare under penalty of perjury in the second degree, and any other applicable state or federal laws, that the statement made on this document are true and complete to the best of my knowledge.

Prime Contractor Name: _____ Date: _____

Officer Signature and Title:

Northern Arizona Intergovernmental Public Transportation Authority _____
IFB 2017-400 Bulk Fuel, General Terms and Conditions

Forms: Federal Certifications

Form F: Disadvantaged Business Enterprises Overall Sub Participation

(Attachment 49 CFR Part 26)

NAIPTA (Overall) Intended Participation Affidavit

DISADVANTAGED BUSINESS ENTERPRISE INTENDED PARTICIPATION AFFIDAVIT

Procurement Number: _____

Procurement Name: _____

Directions:

- 1. This form must reflect the information included on the individual affidavit attachment for each DBE.
- 2. The form must be signed by an officer of the contractor(s).
- 3. The form must be notarized.
- 4. The affidavits must be submitted at the time of bid.

Proposed DBE Subcontractors	Type of Work	DBE Credit (\$)
(1)	Total Value of DBE Commitments	\$
(2)	Total Bid Amount	\$
Percent DBE Participation (Divide Line 1 by Line 2)		\$

Company Name: _____ Officer Signature: _____

Officer Title: _____

Notary Seal:

Forms: Federal Certifications

Form K: BUY AMERICA CERTIFICATION

(Attachment 49 CFR Part 661)

(To be submitted with a bid or Offer exceeding the small purchase threshold for Federal assistance programs, currently set at \$100,000.)

Certificate of Compliance

The bidder hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C), Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, and the regulations of 49 C.F.R. 661.11:

Date: _____

Signature: _____

Title: _____

Company Name: _____

Certificate of Non-Compliance

The bidder hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C) and Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirements consistent with 49 U.S.C. Sections 5323(j)(2)(B) or (j)(2)(D), Sections 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act, as amended, and regulations in 49 C.F.R. 661.7.

Date: _____

Signature: _____

Title: _____

Company Name: _____