

Agreement for Professional Services
Produce and Install Graphics on Transit Buses

This Agreement ("Agreement") is made and entered into this _____ day of _____, 2016 by and between the Tuolumne County Transit Agency ("TCTA"), a California joint powers authority, and Custom Vinyl Applications, a California based company, ("Contractor").

1. Agreement Documents

1.01 The total agreement between the parties consists of this Agreement and the following additional documents (collectively, "Agreement Documents"), copies of which are attached hereto and incorporated herein by this reference:

- A. TCTA's Request for Quotes, issued June 3, 2016, including Addenda, if any.
- B. Standard Insurance Requirements, attached hereto as Exhibit A.
- C. Scope of Work, attached hereto as Exhibit B.
- D. Contractor's Proposal, Rate Schedule and Project Schedule, as accepted by the TCTA, attached hereto as Exhibit C.
- E. FTA & DOT Required Provisions, attached hereto as Exhibit D.

In the event of a conflict or ambiguity arising between such documents or any term therein, the document executed later in time shall prevail over the document executed earlier in time. In the event of conflict between any Agreement Document and Exhibit D, the provisions of Exhibit D will control.

2. Recitals

- 2.01** The TCTA desires to enter into an agreement for the production and installation of graphics on transit buses; and,
- 2.02** The TCTA has determined the production and installation of graphics on transit buses involves the performance of professional services; and,
- 2.03** Contractor has responded to the TCTA's Request for Quotes soliciting a quote for the production and installation of graphics on transit buses, hereinafter referred to as the "Project;" and,
- 2.04** Contractor hereby represents that it is in the business of, and fully qualified in, the field of producing and installing graphics on transit buses and is fully willing and able to perform the work described in the Scope of Work, Exhibit B, of this Agreement, and with the level of service and operating quality specified herein. The TCTA awarded this Agreement in reliance

on such representations, and on Contractor's particular skills, experience and abilities as represented by Contractor in its Proposal; and,

- 2.05** The TCTA and Contractor intend to enter into an agreement for the furnishing of certain articles and services for the consideration hereinafter set forth.

The TCTA and Contractor, for the consideration hereinafter described, mutually agree as follows:

- 3. Scope of Work:** Contractor agrees to complete the Project pursuant to the Scope of Work of this Agreement, attached hereto as Exhibit B, and the Agreement Documents. The TCTA agrees to compensate Contractor as specified herein below and accordance with the Request for Proposals, the Proposal and all such other documents referred to herein and made a part of hereof by specific reference.
- 4. Effective Date/Term:** This Agreement shall be effective from the date of execution. The term of the Agreement shall extend from the date TCTA issues a notice to proceed and shall continue until completion of the tasks as identified within the Scope of Work. Contractor shall not commence work prior to the date a written Notice to Proceed is issued by the TCTA.
- 5. Commencement/Completion of Work:** The Contractor agrees to commence work upon execution of this Agreement and receipt of a written notice to proceed from the TCTA Executive Director and perform and complete the project in compliance with the Scope of Work, Exhibit B, and Project Schedule in Exhibit C.
- 6. Suspension, Delay or Interruption of Work:** The TCTA may suspend, delay or interrupt the services of the Contractor for the convenience of the TCTA. In the event of force majeure or such suspension, delay or interruption, an equitable adjustment in the Project's schedule, commitment and cost of Contractor's personnel and subcontractor, and Contractor's compensation will be made.
- 7. Additional Services:** For additional related services not outlined in Section 3 above, a separate Scope of Work describing the scope, schedule, fee and work products will be negotiated by the TCTA and the Contractor and approved as written amendments to this Agreement prior to any additional work effort being commenced upon.
- 8. Professional Standards:** Contractor warrants and guarantees that the work provided under this Agreement shall be performed and completed in a professional manner. All services shall be performed in the manner and according to the professional standards observed by a competent practitioner of the profession in which Contractor and any subcontractor are engaged.
- 9. Performance:** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory accomplishment of the Contractor's obligations under this Agreement. Performance of services shall comply with the schedule set forth in the Agreement Documents. A time extension may be granted in the event that acts or omissions by the TCTA cause delay. Neither party shall be considered in default of this Agreement to the extent

performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

- 10. Work Standard:** The TCTA has relied upon the professional training and ability of the Contractor to perform the services hereunder as a material inducement to enter into this Agreement. The Contractor shall, therefore, provide properly skilled professional and technical personnel to perform all services under this Agreement. All work performed by the Contractor under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in the Contractor's field of expertise. The Contractor shall be responsible for ensuring any approved subcontractor adheres to this same work standard.
- 11. Personnel:** Contractor shall assign only competent personnel to perform services pursuant to this Agreement. Contractor shall provide all staff necessary to completion of services under this Agreement. The Contractor's Project Team identified in their Proposal shall be the Project Team for the duration of the project unless TCTA agrees to accept replacement personnel. In the event that the TCTA, at its sole discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by Contractor to perform services pursuant to this Agreement because of their incompetence, Contractor shall remove any such person(s) immediately upon receiving notice from the TCTA of the desire of the TCTA for the removal of such person(s).
- 12. Independent Contractor:** In providing the services as set forth in the Agreement Documents, Contractor shall act as an independent contractor and not as an employee of the TCTA. In accordance with that relationship, Contractor shall assume all responsibility for its employees for Federal and State income tax withholding, FICA, SDI and any other deductions from income that Contractor is properly required to make as an independent contractor.
- 13. Administration of Agreement:** Contractor's compliance with this Agreement shall be supervised and administered by the TCTA through the office of the Executive Director. This paragraph shall not relieve Contractor of any obligation or liability undertaken by virtue of this Agreement.
- 14. Written Notification:** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent prepaid, first class United States mail. Any such notice, demand, request, consent, approval or communication shall be addressed to the other party at the address set forth hereinbelow. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of depositing in the United States mail box if mailed as provided in this section.

If to TCTA:

Tuolumne County Transit Agency
Darin Grossi, Executive Director
2 South Green Street
Sonora, CA 95370
dgrossi@co.tuolumne.ca.us

If to Contractor:

Custom Vinyl Applications
Eric Cagliaro, Owner
1182 Mark Twain Road
Angels Camp, CA 95222
209.743.2354

15. Consents and Agreements: Any and all consents and agreements provided for or permitted by this Agreement shall be in writing, and a signed copy thereof shall be filed and kept with the books of this Agreement.

16. Signature Authority

16.01 The Executive Director or his designee shall have authority on behalf of the TCTA to sign Agreement amendments and other documents related to this Agreement.

16.02 Contractor certifies that the following person(s) have authority to sign Agreement amendments and other documents related to this Agreement on behalf of Contractor. Written certification of the signatory authority of the following persons shall be provided by the Contractor to the TCTA prior to execution of this Agreement.

Eric Cagliaro

Name

Owner

Title

17. Insurance Requirements: Contractor and/or any subcontractor shall provide a Certificate of Insurance as proof of a policy of insurance satisfactory to the TCTA evidencing that Contractor and/or subcontractor maintains insurance that meets the requirements included in Exhibit A, "Standard Insurance Requirements," of this Agreement.

18. Workers Compensation

18.01 Contractor shall comply with the provisions of the Workers' Compensation and Insurance Law of the State of California.

18.02 The TCTA shall not be responsible for providing Workers' Compensation insurance or any other protective insurance coverage for the Contractor that is based upon the relationship of employer and employee.

19. Compensation: Progress payments will be made periodically but no more frequently than monthly and will be paid based upon the work completed by task at the close of the billing period, at a total cost upon project completion not to exceed \$18,090.60. Contractor shall submit monthly statements for work completed as described in Article 20, Reporting Requirements, of this Agreement, which shall be reviewed by the Executive Director of the TCTA, and when determined to be in order and correct, will be approved for payment. The monthly statements shall be based on the amount of work completed in accordance with Exhibit B, Scope of Work, and shall be billed in accordance with the Rate Schedule included in Exhibit C. Progress payments will be limited to 90% of the budget for the tasks completed. The 10% retention will be released upon completion, presentation and approval of the final Project. Payment for work completed can be expected within 30 days of invoice receipt and verification of work performed.

- 20. Reporting Requirements:** The Contractor will provide to the TCTA a monthly written progress report detailing status of the work schedule and outputs, the percentage of work completed by task and any other relevant factors to completion of all work in a timely manner. The Contractor will notify the TCTA of any potential or existing problem areas as soon as possible.
- 21. Maintenance of Records/Audit Rights:** Contractor shall maintain books, records, documents and other evidence directly pertinent to work under this Agreement in accordance with generally accepted accounting principles and practices. Contractor shall also maintain for a period of at least three (3) years from the expiration date of this Agreement the financial information and data used by Contractor to determine charges and costs related to work performed under this Agreement. The TCTA, and any Federal or State authorized representatives, shall have the right to inspect and audit Contractor's accounting books, records and documents during normal business hours. Such records shall be turned over to the TCTA upon request.
- 22. Work Product Property of the TCTA:** All plans, specifications, reports, computer files and other work products prepared by Contractor pursuant to this Agreement shall become the property of the TCTA. The TCTA's use of documents produced under this Agreement and/or supporting information or calculations other than as intended hereunder shall be at the TCTA's sole risk.
- 23. Release of Documents and Information:** Services provided within the scope of this Agreement are for the exclusive use of the TCTA. The TCTA and Contractor agree that all data, plans, specifications, reports, computer files and other work products will not be released to third parties by Contractor without the prior written consent of the TCTA.
- 24. Covenant Against Contingent Fees:** The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee or subcontractor working for the Contractor, as provided for in the Contractor's Proposal (as accepted by TCTA), to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person other than a bona fide employee, a fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon, resulting from the award or making this Agreement. For breach or violation of this warranty, the TCTA shall have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.
- 25. Covenant Against Gratuities:** Contractor covenants that it has not offered or given gratuities in the form of entertainment, gifts or otherwise to any member, officer or employee of the TCTA with a view toward securing favorable treatment in the award, modification or performance evaluation of this Agreement. For breach or violation of this covenant, the TCTA shall have the right to cancel this Agreement without any liability to Contractor.
- 26. Restrictions on Lobbying:** Contractor shall not pay any person or organization to influence or attempt to influence an officer or employee of any federal, state or local agency in connection with awarding this Agreement or any other Federal award from which funding for this Project is originally derived, consistent with the FTA & DOT Required Provisions on Lobbying (see Exhibit D).

- 27. Transfer of Agreement:** This Agreement is made in reliance by TCTA upon the qualifications and responsibility of Contractor. The performance by Contractor of this Agreement may not be assigned, sublet, transferred or in any way subcontracted, except upon the prior written approval of the TCTA.
- 28. ^[CD1]Third Party Obligations:** Contractor agrees to refrain from awarding any third party subcontract without prior written approval by TCTA. Contractor shall be solely liable to third parties with whom it enters into contracts to effectuate the purpose of this Agreement. Contractor shall pay directly such parties for all amounts due under said arrangement. Contractor shall indemnify, defend and hold the TCTA harmless from any and all claims and liabilities arising from any third party contracts. Contractor shall exert its best efforts to prevent any loss to the TCTA from the failure of proper performance of any third party.
- 29. Conflicts of Interest:** Contractor shall not enter into any Agreement, subcontract or arrangement in connection with the Project or any property included or planned to be included in the Project, in which any member, officer or employee of Contractor or the TCTA, during the Project term and for one year thereafter, has any direct or indirect interest. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of the Project term any such interest, and if such interest is immediately disclosed to Contractor and such disclosure is entered upon the minutes of Contractor's written report to the TCTA of such interest, Contractor, with the prior written approval of the TCTA, may waive the prohibition contained in this subsection; provided that any such present member, officer or employee shall not participate in any action by Contractor or the TCTA relating to such Agreement, subcontract or arrangement.
- 30. Health, Safety, Fire and Environmental Protection**
- The Contractor and any subcontractor or agent shall comply with Federal, State and local requirements pertaining to safety, health, fire and environmental protection.
- The Contractor shall comply with all applicable provisions of the California Occupational Safety and Health Act of 1973, including any amendments thereto, and the rules, standards, orders and regulations prescribed by the Occupational Safety and Health Standards Board and the Division of Industrial Safety in the California Department of Industrial Relations. Contractor shall further comply with all other applicable safety laws, ordinances and regulations.
- In the event standards conflict, the standard providing the highest degree of protection and not in violation of any other applicable standard or law shall prevail.
- 31. Federal, State and Local Laws:** Contractor warrants and covenants that it shall fully and completely comply with all applicable Federal, State and local laws and ordinances, and all lawful orders, rules and regulations issued by any authority with jurisdiction in all aspects of its performance of this Agreement.
- 32. Governing Law:** The laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall also govern the interpretation of this Agreement.

33. Indemnification

To the extent permitted by law, Contractor does hereby assume liability for, and agrees to defend, indemnify, protect, save and keep harmless the TCTA and its elected and appointed officials, officers, employees, agents and volunteers and its successors and assigns (collectively, "TCTA") from and against any and all liabilities, obligations, losses, damages, penalties, fines, claims, actions, suits, costs and expenses and disbursements (including legal fees and expenses) of any kind and nature imposed, asserted against, incurred or suffered by the TCTA by reason of damage, loss or injury (including death) of any kind or nature whatsoever to persons or property (collectively, "Liability") caused by, or claimed or alleged to be caused by, in whole or in part, or in any way relating to or arising out of:

- A. Any negligent or intentional act or action, or any neglect, omission or failure to act when under a duty to act on the part of Contractor or any of its officers, agents, servants, employees, subcontractors or subcontractors of any tier in its or their performance hereunder; and,
- B. any claim of patent or copyright infringement or publication of defamatory material, including the TCTA's failure to request removal of such material in connection with the services performed and/or work products provided under this Agreement by Contractor or any of its officers, agents, servants, employees, subcontractors or subcontractors of any tier; and,
- C. a release by Contractor of any of its officers, agents, servants, employees, subcontractors or subcontractors of any tier in its or their performance hereunder of any substance or material defined or designated as a hazardous or toxic substance, material or waste by any Federal, State or local law or environmental statute, regulation or ordinance presently in effect, or as amended or promulgated in the future.

Contractor shall make good to and reimburse the TCTA for any expenditures, including reasonable attorney's fees, the TCTA may make by reason of such matters and, if requested by the TCTA, shall defend any such suits at the sole cost and expense of Contractor. Contractor's obligations under this section shall exist regardless of concurrent negligence or willful misconduct on the part of the TCTA or any other person; provided, however, that Contractor shall not be required to indemnify the TCTA for the proportion of Liability a court determines is attributable to the negligence or willful misconduct of the TCTA. The parties shall establish procedures to notify the other party where appropriate of any claims, administrative actions or legal actions with respect to any of the matters described in this indemnification provision. The parties shall cooperate in the defense of such actions brought by others with respect to the matters covered in this indemnity. Nothing set forth in this Agreement shall establish a standard of care for, or create any legal rights in, any person not a party to this Agreement.

If such indemnification becomes necessary, the TCTA Counsel shall have the absolute right and discretion to approve or disapprove of any and all counsel employed to defend the TCTA. This indemnification clause shall survive the termination or expiration of this Agreement.

37. Sanctions for Noncompliance

In the event of the Contractor's noncompliance with the provisions of this Agreement, the TCTA shall impose such Agreement sanctions as it may determine to be appropriate, including, but not limited to:

- A. Withholding of payments due to the Contractor under this Agreement until the Contractor complies to the TCTA's satisfaction, and/or
- B. Cancellation, termination or suspension of this Agreement, in whole or in part.

38. Termination of Agreement

38.01 Acts Constituting Termination: This Agreement shall commence on the date of its execution and shall continue until:

- A. Completion of the Project pursuant to Scope of Work, Exhibit B, as approved by TCTA;
- B. Voluntary or involuntary transfer or assignment by either party hereto without the consent of the other party of any of the rights, titles or obligations set forth in this Agreement;
- C. Mutual agreement of the parties hereto to terminate this Agreement;
- D. Any default or breach of this Agreement by either party hereto which has not been cured within thirty (30) days after notice of such default by the other party, or such later time as is reasonably necessary if the default cannot be reasonably cured within such thirty (30) day period;
- E. Written notice is delivered by either party to the other party ninety (90) days prior to the effective date of termination.
- F. The TCTA may terminate this Agreement for convenience upon ten (10) days' written notice to Contractor.

38.02 Contractor shall be paid for all work performed through the date of termination at the rates set forth in the Rate Schedule in Exhibit C, and subject to the proportion of work completed and approved by the Executive Director.

Upon termination of this Agreement, all affairs undertaken or conducted pursuant to this Agreement shall be wound up and debts paid.

39. Breach

If Contractor materially breaches the terms of this Agreement, the TCTA shall have the following remedies:

- A. Immediately terminate the Agreement with Contractor;
 - B. Complete the unfinished work under this Agreement with a different Contractor;
 - C. Charge Contractor with the difference between the cost of completion of the unfinished work pursuant to this Agreement and the amount that would otherwise be due Contractor, had Contractor completed the work; and/or
 - D. Allow the Contractor five (5) business days to diligently complete the correction.
- 40. Waiver:** A waiver by the TCTA of a breach or failure to perform hereunder shall not constitute a waiver of any subsequent breach or failure. No failure on the part of the TCTA to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.
- 41. Disputes:** Should it become necessary for a party to this Agreement to enforce any of the provisions hereof, the prevailing party in any claim or action shall be entitled to reimbursement for all expenses so incurred, including reasonable attorney's fees. It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the County of Tuolumne, State of California.
- 42. Amendments:** This Agreement may be amended or modified in any way by an instrument in writing, stating the amendment or modifications, signed by the parties hereto.
- 43. Survivorship:** Any responsibility of Contractor for warranties, insurance or indemnity with respect to this Agreement shall not be invalidated due to the expiration, termination or cancellation of this Agreement.
- 44. Severability:** If any term, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, the remainder of this Agreement shall remain in effect.
- 45. Successors and Assigns:** This Agreement is binding upon the TCTA and the Contractor and their successors. Except as otherwise provided herein, neither the TCTA nor the Contractor shall assign, sublet or transfer its respective interest in this Agreement or any part thereof without the prior written consent of the other.
- 46. Succession:** This Agreement shall be binding on and inure to the benefit of heirs, executors, administrators and assigns of the parties hereto.
- 47. Third Party Beneficiary:** Nothing in this Agreement is intended to, nor shall anything in this Agreement be construed to, benefit any third party.
- 48. Ambiguities:** The parties have each carefully reviewed this Agreement and have agreed to each term of this Agreement. Both parties have had the opportunity to engage counsel and negotiated the term of the Agreement. No ambiguity shall be presumed to be construed against either party.

- 49. Integration:** The Agreement Documents embody the entire agreement of the parties in relation to the scope of services herein described, and no other understanding whether verbal, written or otherwise exists between the parties.
- 50. Relationship Between the Parties:** Nothing in these Agreement Documents is intended to create, and nothing herein shall be considered as creating, any partnership, joint venture or agency relationship between the TCTA and Contractor.
- 51. Modification:** No waiver, alteration, modification or termination of this Agreement shall be valid unless made in writing and signed by the authorized parties hereof.
- 52. Headings and Subtitles:** Headings and subtitles to the Articles of this Agreement have been used for convenience only and do not constitute matter to be considered as interpreting this Agreement.
- 53. Sole and Only Agreement:** This instrument contains the sole and only agreement of the parties and correctly sets forth the rights, duties and obligations of each party to the other as of this date. Any prior agreements, policies, negotiations and/or representations are expressly set forth in this Agreement.

54. Acceptance of Agreement: The undersigned, having read the foregoing, accept and agree to the terms set forth therein. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the administrators for the parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the parties thereto.

In witness hereof, the parties have caused their authorized representatives to execute this Agreement as of the date first written above.

For the Contractor:

Legal Name of Firm

Signature

Street Address

Name (typed)

City, State, Zip Code

Title

For the TCTA:

Tuolumne County Transit Agency

Approval Recommended:

Chair of the TCTA

Executive Director

Date: _____

Approved as to Legal Form:
TCTA Legal Counsel

By: _____

Date: _____

Exhibit A

Standard Insurance Requirements

Contractor at its own expense, shall procure, and maintain for the duration of the Agreement, the following insurance policies and endorsements with insurers licensed in the State of California possessing a Best's rating of no less than A:VII. The Contractor shall provide notice to the TCTA Executive Director by registered mail, return receipt requested, thirty (30) days prior to cancellation or material change for all of the following stated insurance policies:

- A. Workers' Compensation Coverage - Worker's Compensation Insurance and Employer's Liability Insurance for employees in accordance with the laws of the State of California (including requiring any authorized subcontractor to obtain such insurance for its employees).
- B. General Liability Coverage - Commercial general liability insurance with a minimum liability limit per occurrence of one million dollars (\$1,000,000) for bodily injury and one hundred thousand dollars (\$100,000) for property damage. If a commercial general liability insurance form or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Coverage shall be included for premises, operations and broad form contractual.
- C. Automobile Liability Coverage - Automobile liability insurance with a minimum liability limit per occurrence of one million dollars (\$1,000,000) for bodily injury and one hundred thousand dollars (\$100,000) for property damage, and including coverage for owned, hired and non-owned vehicles.
- D. Professional Liability Coverage - Professional errors and omissions liability for protection against claims alleging negligent acts, errors or omissions which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor or by its employees, subcontractors or subconsultants. The amount of this insurance shall not be less than one million dollars (\$1,000,000) per claim with an aggregate limit of five million dollars (\$5,000,000).
- E. Policy Endorsements: Each general liability and automobile liability insurance policy shall be endorsed with the following specific provisions:
 - 1) The TCTA, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds ("TCTA additional insureds").
 - 2) This policy shall be considered, and include a provision it is, primary as respects the TCTA additional insureds, and shall not include any special limitations to coverage provided to the TCTA additional insureds. Any insurance maintained by the TCTA, including any self-insured retention the TCTA may have, shall be considered excess insurance only and shall not contribute with it.

- 3) This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.
 - 4) The insurer waives all rights of subrogation against the TCTA additional insureds.
 - 5) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the TCTA additional insureds.
- F. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the Executive Director. At the TCTA's option, Contractor shall demonstrate financial capability for payment of such deductibles or self-insured retentions.
- G. Evidence of Insurance: Contractor shall provide policies and certificates of insurance with original endorsements or other evidence of insurance coverage as required by the Executive Director. Required evidence of insurance shall be filed with the Executive Director on or before commencement of performance of this Agreement. Current evidence of insurance shall be kept on file with the Executive Director at all times during the term of this Agreement.
- H. Unsatisfactory Policies: If at any time any of the policies or endorsements be unsatisfactory as to form or substance, or if an issuing company shall be unsatisfactory, to the Executive Director, a new policy or endorsement shall be promptly obtained and evidence submitted to the Executive Director for approval.
- I. Failure to Comply: Upon failure to comply with any of these insurance requirements, this Agreement may be forthwith declared suspended or terminated. Failure to obtain and/or maintain any required insurance shall not relieve any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the indemnification obligations.

Exhibit B



Date: June 3, 2016

**Subject: Request for Quotes –Production and Installation of branded
‘Wrap’ for 10 Tuolumne County Transit Vehicles**

The Tuolumne County Transit Agency (TCTA) is soliciting quotes for Production and Installation of branded ‘wraps’ for Tuolumne County Transit Vehicles:

Five (5) Tuolumne County Transit Buses

Five (5) Tuolumne County Transit Buses to be delivered by December 2016

All proposers please note the following:

1. Five (5) existing Tuolumne County Transit Buses are currently displaying outdated branding and need to be re-branded. These vehicles are bus numbers 47, 48, 49, 50 and 51. These vehicles are:

47- 2011 Ford Type III, 25’ Glaval

48- 2011 Ford Type III, 25’ Glaval

49- 2013 Allstar, E450, 30’ Starcraft

50- 2013 Starcraft, E350, 22’ Starcraft

51- 2013 Starcraft, E450, 30’ Starcraft

2. Five (5) brand new buses, on order, to be delivered in 2016.

Three (3) Glaval Universal Type C Buses, 25’ in length.

Two (2) Glaval Legacy Type E Buses, 32’ in length.

3. The exact location and size of the new brand (image presented below) will be finalized with the winning proposer, based on bus size and features. The layout of the ‘bus graphics’ needs to accommodate advertising on buses. Having the ability to do graphic design is required. Due to the uncertainty inherent in this element of the project, proposals shall list hourly graphic design cost.

4. Buses will be made available for photos, viewing, and measurements. Contact Cathy Metcalfe, Transit Manager at 209-532-0419 if you would like to schedule a time to view the vehicles.
5. Questions must be submitted in writing before 5:00pm, June 10, 2016 to Tyler Summersett at tsummersett@co.tuolumne.ca.us. Responses to all questions will be provided by 5:00pm June 13, 2016. It is the TCTA's intent to provide the same information to all proposers, questions will not be answered individually by telephone or email. Any oral responses to questions are not binding on the TCTA. The TCTA will post the questions received, along with written responses, to the Tuolumne County Transit website, www.tuolumnecountytransit.com. **It is the responsibility of the proposers to check the TCT website to review questions and responses.**
6. The deadline for all bids is 2:00pm on June 23, 2016. Quotes should be addressed to Tuolumne County Transit Agency, 2 South Green Street (mailing) or 48 West Yaney Avenue (physical), Sonora, CA, 95370, if delivered by mail or courier, and must be received by TCTA no later than the time and date indicated above. It is the sole responsibility of the proposer to send or deliver its quotes so that they are received by the time and date required, regardless of postmark. No faxed quotes will be accepted. The TCTA has no authority to accept quotes submitted after the above date and time, and will return unopened any quotes that are received late.
7. TCTA will consider proposals for vinyl, paint, or any other product of equal or superior quality.
8. Bids are evaluated on a 35 point scale: 10 points for cost, 5 points for material quality and durability (product warranty), and 20 points for experience.
9. Proposer should include examples of other vehicles wrapped or projects similar in nature.
10. All material and workmanship must be guaranteed to be free of defects for a minimum of three (3) years.
11. TCTA retains the right to reject any/all proposals it deems unsatisfactory and to wave any deficiency in the proposal if deemed to be immaterial.

Attached: Photos of TCT Buses

Current Vehicle look:



New Vehicle Design:



Exhibit C

Tuolumne County Transit Bus Graphics Quote

The materials to be used on this project will be correct to the substrate. Most likely Oracal brand, 970RA. This product is designed for vehicle applications, specializing in adhering to contours, lack of shrinkage, and good quality with a minimum life expectancy of five years. This material is the better way to go over other options. The 970RA comes in the color desired with a "clear coat" built in, which means it is a thinner, single layer application and less likely to fail due to heating and cooling compared to materials that need laminating.

I personally have over six years in this field and plan to keep at it for many more. I offer many different aspects in the graphics/advertising field such as banners, signs, lettering and displays. However I prefer doing vehicle graphics and wraps. They are extremely eye-catching and effective.

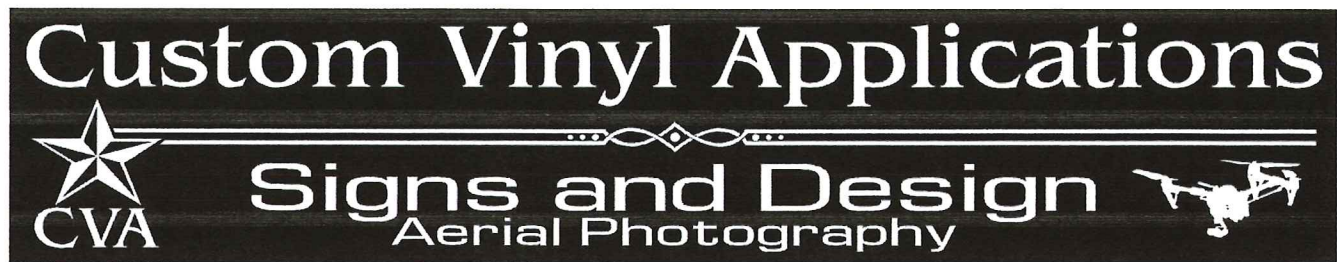
I care very much about my work and reputation. I've lived here in the area for over 30 years and am always happy to see things, like this, that are a positive beautifier to the community. I stand behind my work and it shows in the very low number of returns for repairs or warranty work.

I have been working with the Amador and Calaveras transit companies for the last two years, so I am quite familiar with these buses. Attached are photos of some of my past jobs.

Sincerely,

Eric Cagliaro
Custom Vinyl Applications

I look forward to hearing from you to discuss how to move ahead with your project. Thank you very much for your time and consideration.



Eric Cagliaro
209 743 2354

06/16/16	Tuolumne County Transit

We are pleased to provide our best estimate for the following goods upon your request:

Description:	Quant.	Price	Total
Layout, prep, install materials for vehicle wrap (bus). Rear quarter graphics plus assorted lettering and smaller graphics. Per bus.	1	\$1,750.00	\$1,750.00
Subtotal			\$1,750.00
Tax			\$59.06
Total			\$1,809.06

Pending your feedback, Thank you.

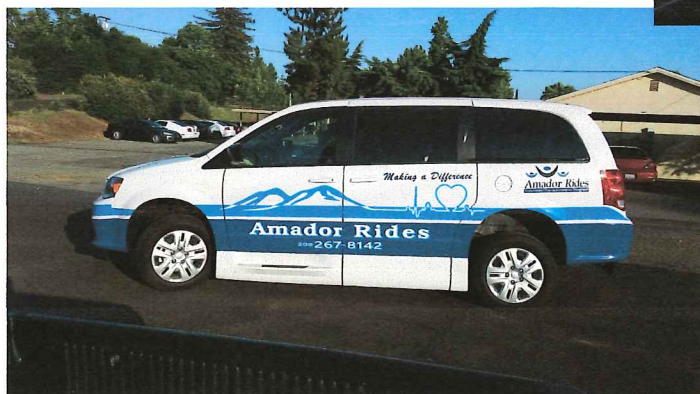
1182 MarkTwain Rd. Angels Camp, CA 95222

Phone: 209-743-2354

P.o. Box 1194 Altaville, CA 95221

Email: cagliaro@comcast.net

cvapps.com





THIRD PARTY AGREEMENT CLAUSES

Federal Transit Administration and California Department of Transportation Required Provisions

1. Source of Funding:

This agreement entered on _____ between Tuolumne County Transit Agency (TCTA)
Date

and _____ for
Contractor

_____ *Project*

is being funded with the following fund source(s) and amounts:

Fund Source	Amount

Parties referenced in the following clauses are defined as:

“Awarding Agency” is the subrecipient of the State of California Department of Transportation.

“PROJECT” is the Awarding Agency’s federally supported project.

“CONTRACTOR” is the third-party vendor who has entered into this third-party agreement with the Awarding Agency to provide goods or services directly to the Awarding Agency for the accomplishment of the PROJECT.

“Subagreements” are agreements made between the CONTRACTOR and any subcontractors to facilitate the accomplishment of this third-party agreement.

For all Third-Party agreement awards excluding Micro-Purchases, except Construction Contracts exceeding \$2,000

No Obligation to Third-Parties by use of a Disclaimer

- A. No Federal Government Obligation to Third Parties. The CONTRACTOR agrees that, absent of the Federal Government’s express written consent, the Federal Government shall not be subject to any obligations or liabilities to any contractor, any third-party contractor or any other person not

a party to the Grant Agreement in connection with the performance of the PROJECT.

Notwithstanding any concurrence provided by the Federal Government in or approval of any solicitation, or third-party agreement, the Federal Government continues to have no obligation or liabilities to any party, including the CONTRACTOR or third-party contractor.

- B. Third-Party Agreements and Subagreements Affected. To the extent applicable, federal requirements extend to third-party contractors and their agreements at every tier, and to the subagreements of third-party contractors and the subagreements at every tier. Accordingly, the CONTRACTOR agrees to include, and to require its third-party contractors to include appropriate clauses in each third-party agreement and each subagreement financed in whole or in part with financial assistance provided by the Federal Transit Administration (FTA).
- C. No Relationship between the California Department of Transportation and Third-Party Contractors. Nothing contained in this Agreement or otherwise, shall create any contractual relationship, obligation or liability between the California Department of Transportation (Caltrans) and any third-party contractors, and no third-party agreement shall relieve the CONTRACTOR of his responsibilities and obligations hereunder.

The CONTRACTOR agrees to be fully responsible to the Awarding Agency for the acts and omissions of its third-party contractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the CONTRACTOR. The CONTRACTOR'S obligation to pay its third-party contractors is an independent obligation from Awarding Agency's obligation to make payments to the CONTRACTOR. As a result, Caltrans shall have no obligation to pay or to enforce the payment of any moneys to any third-party contractor.

- D. Obligations on Behalf of the California Department of Transportation. The CONTRACTOR shall have no authority to contract for or on behalf of, or incur obligations on behalf of Caltrans.
- E. Awarding Agency Approval of Subagreements. The Awarding Agency shall approve in writing all proposed Subagreements, Memorandums of Understanding (MOU), or similar documents relating to the performance of the Agreement prior to implementation. The CONTRACTOR agrees that it will not enter into any subagreements unless the same are approved in writing by the Awarding Agency. Any proposed amendments or modifications to such subagreements must be approved by the Awarding Agency prior to implementation.

Program Fraud and False or Fraudulent Statements or Related Acts

- A. The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et. seq. and U.S. Department of Transportation regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this PROJECT. Upon execution of an underlying agreement, 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 that underlying agreement or the federally assisted PROJECT for which this

contracted work is being performed. In addition to other penalties that may be applicable, the CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extent the Federal Government deems appropriate.

- B. The CONTRACTOR also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a agreement connected with a PROJECT that is financed in whole or in part with federal assistance originally awarded by the FTA under the authority of 49 U.S.C. Section 5307, the Government reserves the right to impose the penalties of 18 U.S.C. Section 1001 and 49 U.S.C. Section 5307(n)(1) on the CONTRACTOR, to the extent the Federal Government deems appropriate.
- C. The CONTRACTOR agrees to include the above two clauses in each subagreement financed in whole or in part with Federal Assistance provided by the California Department of Transportation. It is further agreed that these clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Access to Records

The Awarding Agency, Caltrans, the State Auditor General and any duly authorized representative of the Federal Government shall have access to any books, records and documents of the CONTRACTOR and its subcontractors that are pertinent to this Agreement of audits, examinations, excerpts and transactions, and copies thereof shall be furnished if requested. The CONTRACTOR shall include a clause to this effect in every subagreement entered into relative to the PROJECT.

Record Keeping

The CONTRACTOR and all subcontractors shall maintain all books, documents, papers, accounting records and other evidence pertaining to the performance of this Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the performance and for three (3) years from the date of the final payment under this Agreement and all subagreements.

Accounting Records

The CONTRACTOR shall establish and maintain separate accounting records and reporting procedures specified for the fiscal activities of the PROJECT. The CONTRACTOR'S accounting system shall conform to generally accepted accounting principles (GAAP) and uniform standards that may be established by Caltrans. All records shall provide a breakdown of total costs charged to the PROJECT including properly executed payrolls, time records, invoices and vouchers.

Federal Changes, Amendments to State, and Local Laws, Regulations, and Directives

The terms of the most recent amendments to any federal, State or local laws, regulations, FTA directives, and amendments to the grant or cooperative agreement that may be subsequently adopted, are applicable to the PROJECT to the maximum extent feasible, unless Caltrans provides otherwise in writing.

Civil Rights (Title VI, EEO & ADA)

During the performance of this Agreement, the CONTRACTOR, its assignees and successors in interest, agree to comply with all federal statutes and regulations applicable to grantee recipients under the Federal Transit Act, including, but not limited to the following:

- A. Race, Color, Creed, National Origin, Sex. In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. Section 2000e, and federal transit law at 49 U.S.C. Section 5332, the CONTRACTOR agrees to comply with all applicable equal employment opportunity (EEO) requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office 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. Section 2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the PROJECT. The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the CONTRACTOR agrees to comply with any implementing requirements the California Department of Transportation may issue.
- B. Nondiscrimination. The CONTRACTOR, with regard to the work performed by it during the agreement term shall act in accordance with Title VI. Specifically, the CONTRACTOR shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. Department of Transportation's Regulations, including employment practices when the Agreement covers a program whose goal is employment. Further, In accordance with Section 102 of the Americans with Disabilities Act (ADA), as amended, 42 U.S.C. Section 12112, the CONTRACTOR agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the CONTRACTOR agrees to comply with any implementing requirements the California Department of Transportation may issue.
- C. Solicitations for Subagreements Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation by the CONTRACTOR for work to be performed under a subagreement, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the CONTRACTOR of the

subcontractor's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

- D. Information and Reports. The CONTRACTOR shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Awarding Agency or the California Department of Transportation to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish the information, the CONTRACTOR shall so certify to the Awarding Agency or the California Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance. In the event of the CONTRACTOR's noncompliance with the nondiscrimination provisions of the Agreement, the Awarding Agency shall:
1. Withhold payment to the CONTRACTOR under the Agreement until the CONTRACTOR complies, and/or
 2. Cancel, terminate or suspend the Agreement, in whole or in part.
- F. Incorporation of Provisions. The CONTRACTOR shall include the provisions of these paragraphs A through F in every subagreement, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The CONTRACTOR will take such action with respect to any subcontractor or procurement as the Awarding Agency or the California Department of Transportation may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such directions, the CONTRACTOR may request the Awarding Agency to enter into such litigation to protect the interest of the Awarding Agency, and, in addition, the CONTRACTOR may request the California Department of Transportation to enter into such litigation to protect the interests of the California Department of Transportation.

Incorporation of FTA Terms

Incorporation of Federal Transit Administration Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by the Department of Transportation (DOT), whether or not expressly set forth in the preceding agreement provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything on the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of conflict with other provisions contained in this Agreement. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any Caltrans requests which would cause Caltrans to be in violation of the FTA terms and conditions. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any Awarding Agency requests that would cause the Awarding Agency to be in violation of the FTA terms and conditions.

Energy Conservation

The CONTRACTOR agrees to comply with the mandatory energy efficiency standards and policies within the applicable California Department of Transportation energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42, U.S.C. Section 6321 et seq.

Awards exceeding \$10,000

Additional Termination Provisions

- A. Termination for Convenience (General Provision). When it is in the Awarding Agency's best interest, the Awarding Agency reserves the right to terminate this Agreement, in whole or in part, at any time by providing a TEN (10) DAY WRITTEN NOTICE to the CONTRACTOR. The CONTRACTOR shall be paid its costs, including agreement close out costs, and profit on work performed up to the time of termination. The CONTRACTOR shall promptly submit its termination claim to the Awarding Agency. If the CONTRACTOR has any property in its possession belonging to the Awarding Agency, the CONTRACTOR, will account for the same, and dispose of it in the manner the Awarding Agency directs.
- B. Termination for Default (General Provision). If the CONTRACTOR does not deliver supplies in accordance with the agreement delivery schedule, or, if the agreement is for services, the CONTRACTOR fails to perform in the manner called for in the agreement, or if the CONTRACTOR fails to comply with any other provisions of the agreement, the Awarding Agency may terminate this agreement for default. Termination shall be effected by serving a notice of termination on the CONTRACTOR setting forth the manner in which the CONTRACTOR is in default. The CONTRACTOR will only be paid the agreement price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the agreement.
- C. Mutual Termination. The PROJECT may also be terminated if the Awarding Agency and the CONTRACTOR agree that its continuation would not produce beneficial results commensurate with the further expenditure of funds or if there are inadequate funds to operate the PROJECT equipment or otherwise complete the PROJECT.

Awards exceeding \$25,000

Debarment and Suspension

- A. The CONTRACTOR agrees to comply with the requirements of Executive Order Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. Section 6101 note; and U.S. Department of Transportation regulations on Debarment and Suspension and 49 CFR Part 29.

- B. Unless otherwise permitted by the California Department of Transportation, the CONTRACTOR agrees to refrain from awarding any third-party agreement of any amount to or entering into any subagreement of any amount with a party included in the “U.S. General Services Administration’s (U.S. GSA) List of Parties Excluded from Federal procurement or Non-procurement Program,” implementing Executive Order Nos. 12549 and 12689, “Debarment and suspension” and 49 CFR Part 29. The list also includes the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible for agreement award under statutory or regulatory authority other than Executive Order Nos. 12549 and 12689.
- C. Before entering into any subagreements with any subcontractor, the CONTRACTOR agrees to obtain a debarment and suspension certification from each prospective recipient containing information about the debarment and suspension status and other specific information of that awarding agency and its “principals,” as defined at 49 CFR Part 29.
- D. Before entering into any third-party agreement exceeding \$25,000, the CONTRACTOR agrees to obtain a debarment and suspension certification from each third-party contractor containing information about the debarment and suspension status of that third-party contractor and its “principals,” as defined at 49 CFR 29.105(p). The CONTRACTOR also agrees to require each third-party contractor to refrain from awarding any third-party subagreements of any amount, at any tier, to a debarred or suspended subcontractor, and to obtain a similar certification from any third-party subcontractor, at any tier, seeking an agreement exceeding \$25,000.

Awards exceeding \$100,000

Buy America

The CONTRACTOR shall comply with the Buy America requirements of 49 USC 5323(j) and 49 CFR Part 661 for all procurements of steel, iron and manufactured products used in PROJECT. Buy America requirements apply to all purchases, including materials and supplies funded as operating costs, if the purchase exceeds the threshold for small purchases (currently \$100,000). Separate requirements for rolling stock are set out at 49 USC 5323(j)(2)(c) and 49 CFR 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

Provisions for Resolution of Disputes, Breaches or Other Litigation

The Awarding Agency and the CONTRACTOR shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, the CONTRACTOR shall submit to the Awarding Agency Representative for this Agreement or designee a written demand for a decision regarding the disposition of any dispute arising under this Agreement. The Awarding Agency Representative shall make a written decision regarding the dispute and will provide it to the CONTRACTOR. The CONTRACTOR shall have an opportunity to challenge in writing within ten (10) working days to the Awarding Agency’s Executive Director or his/her designee. If the CONTRACTOR’S challenge is not made within the ten (10) day period, the Awarding Agency Representative’s decision shall become the final decision of the Awarding Agency.

The Awarding Agency and the CONTRACTOR shall submit written, factual information and supporting data in support their respective positions. The decision of the Awarding Agency shall be final, conclusive and binding regarding the dispute, unless the CONTRACTOR commences an action in court of competent jurisdiction to contest the decision in accordance with Division 3.6 of the California Government Code.

Lobbying

- A. The CONTRACTOR agrees that it will not use federal assistance funds to support lobbying. In accordance with 31 U.S.C. and U.S. Department of Transportation Regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, if the bid is for an award of \$100,000 or more the Awarding Agency will not make any federal assistance available to the CONTRACTOR until the Awarding Agency has received the CONTRACTOR's certification that the CONTRACTOR has not and will not use federal appropriated funds to pay any person or organization to influence or attempt to influence an officer or employee of 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 grant, cooperative agreement or any other federal award from which funding for the PROJECT is originally derived, consistent with 31 U.S.C. Section 1352, and;
- B. If applicable, if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of 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 agreement, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with the form instructions.
- C. The CONTRACTOR shall require that the language of the above two clauses be included in the award documents for all sub-awards at all tiers (including subagreements, sub-grants, and agreements under grants, loans, and cooperative agreements) which exceed \$100,000 and that all awarding agencies shall certify and disclose accordingly.

This Agreement is a material representation of facts upon which reliance was placed when the Agreement was made or entered into. These provisions are a prerequisite for making or entering into an agreement imposed by Section 1352, Title 31, U. S. Code. Any person who fails to comply with these provisions shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Clean Air

- A. The CONTRACTOR agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et. seq. The CONTRACTOR agrees to report each violation to the Awarding Agency and understands and agrees that the Awarding Agency will, in turn, report each violation as required to assured notification to FTA and the appropriate Environmental Protection Agency (EPA) Regional Office.

- B. The CONTRACTOR also agrees to include these requirements in each subagreement exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Clean Water

- A. The CONTRACTOR agrees to comply with all applicable standard, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et. seq. The CONTRACTOR agrees to report each violation to the Awarding Agency and understands and agrees that the Awarding Agency will, in turn, report each violation as required to assured notification to FTA and the appropriate Environmental Protection Agency (EPA) Regional Office.
- B. The CONTRACTOR also agrees to include these requirements in each subagreement exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

Awards with Transit Operations

Transit Employee Protective Arrangements (Transit Operations Only)

The CONTRACTOR agrees to comply with applicable transit employee protective requirements, as follows:

- A. The CONTRACTOR agrees to carry out the transit operations work on the underlying agreement in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this Agreement and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 CFR Part 215, and any amendments thereto.
- B. The CONTRACTOR also agrees to include the applicable requirements in each subagreement involving transit operations financed in whole or in part with federal assistance provided by FTA.

Charter Service Operations

(Transit Operation & Rolling Stock Only) The CONTRACTOR agrees to comply with 49 U.S.C. Section 5323(d) and 49 CFR Part 604, which provides that recipients and awarding agencies of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions listed at 49 CFR-Subpart B. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation. The CONTRACTOR assures and certifies that the revenues generated by its incidental charter bus operations (if any) are, and shall remain, equal to or greater than the cost (including depreciation on federally assisted equipment) of providing the service. The CONTRACTOR understands that the requirements of 49 CFR Part 604 will apply to any charter service provided, the definitions in 49 CFR part 604 apply to this Agreement, and any violation of this Agreement may require corrective measures and the

imposition of penalties, including debarment from the receipt of further federal assistance for transportation.

School Bus Operations

(Transit Operation & Rolling Stock Only) Pursuant to 49 U.S.C. 5323(F) and 49 CFR Part 605, the CONTRACTOR agrees that it and all its subcontractors will: (1) engage in school transportation operations in competition with private school transportation operators only to the extent permitted by an exception provided by 49 U.S.C. 5323 (f) and implementing regulations, and (2) comply with requirements of 49 CFR Part 605 before providing any school transportation using equipment or facilities acquired with federal assistance awarded by FTA and authorized by 49 U.S.C. Chapter 53 or Title 23 U.S.C. for transportation projects. The CONTRACTOR understands that the requirements of 49 CFR Part 605 will apply to any school transportation it provides, that the definitions of 49 CFR part 605 apply to any school transportation agreement, and a violation of this Agreement may require corrective measures and the imposition of penalties, including debarment from the receipt of further federal assistance for transportation.

Vehicle Operator Licensing

(Transit Operation & Rolling Stock Only). The CONTRACTOR is required to comply with all applicable requirements of the Federal Motor Carrier Safety Administration regulations and the California Vehicle Code including, but not limited to, the requirement that all vehicle operators have a valid State of California driver's license, including any special operator license that may be necessary for the type of vehicle operated.

Drug-Free Workplace (FTA Section 5311 Awards)

The CONTRACTOR certifies by signing an Agreement with the Awarding Agency that it will provide a drug-free workplace, and shall establish policy prohibiting activities involving controlled substances in compliance with Government code Section 8355, et seq. The CONTRACTOR is required to include the language of this paragraph in award documents for all sub-awards at all tiers (including subagreements, sub-grants, and agreements under grants, loans, and cooperative agreements) and that all awarding agencies shall disclose accordingly. To the extent the CONTRACTOR, any third-party contractor at any tier, any awarding agency at any tier, or their employees, perform a safety sensitive function under the PROJECT, the CONTRACTOR agrees to comply with, and assure the compliance of each affected third-party contractor any tier, each affected awarding agency at any tier, and their employees with 49 U.S.C. Section 5331, and FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug use in Transit Operations," 49 CFR Part 655.

The following drug and alcohol testing requirement is compliant with drug and alcohol rules. The CONTRACTOR agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Part 655, produce any documentation necessary to establish its compliance with Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the California Department of Transportation, or the Award Agency to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 655 and review the testing process. The CONTRACTOR agrees further to

certify annually its compliance with Part 655 before January 1st and to submit the Management Information System (MIS) reports before March 1st to the Awarding Agency's Executive Director. 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.

Awards with Rolling Stock

Bus Testing

The CONTRACTOR agrees to comply with the requirements of 49 U.S.C. Section 5318(e), 5323 (c) and the FTA regulations, "Bus Testing", 49 C.F.R. Part 665, and any revision thereto, including the certification that before expending any federal assistance to acquire the first bus of any new bus model or any bus model with a new major change in configuration or components or before authorizing final acceptance of that bus, that model of bus will have been tested at the ALTOONA Bus Research and Testing Center. The CONTRACTOR must obtain the final testing report and provide a copy of the report to the Awarding Agency.

Pre-Award and Post Delivery Audit

The CONTRACTOR agrees to comply requirements of 49 U.S.C. Section 5323(l), 5323(m) and the FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR Part 663, and any revision thereto.

Awards with Planning, Research, Development and Documentation Projects

Patent Rights & Rights in Data and Copyrights (Research or Data Development Only)

In accordance with 37 CFR Part 401, 49 CFR Parts 18 and 19, the CONTRACTOR must comply with patent and rights in data requirements for federally assisted agreements involving experimental, developmental or research work. The Awarding Agency reserve a royalty-free, nonexclusive and irrevocable right to the data, patents, and/or inventions produced under this agreement and has the irrevocable right to reproduce, publish or otherwise use the work for federal purposes and reserves the right to grant authority to others.

Miscellaneous Special Requirements

Intelligent Transportation Systems (ITS) National Architecture

To the extent applicable, agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by 23 U.S.C. Section 517(d), 23 U.S.C. Section 512 note, and 23

CFR Part 655 and 940, and follow the provisions of FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

Section 504 and Americans with Disabilities Act Program Requirements

The CONTRACTOR will comply with 49 CFR Parts 27, 37 and 38, implementing the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794, as amended.

Disadvantaged Business Enterprise (DBE)

The CONTRACTOR agrees to comply with U.S. Department of Transportation regulations, "Participation by Disadvantaged Enterprises in Department of Transportation Financial Assistance Programs", 49 CFR Part 26 and will cooperate with California Department Of Transportation with regard to maximum utilization of disadvantaged business enterprises, and will use its best efforts to ensure that disadvantaged business enterprises shall have the maximum opportunity to compete for sub contractual work under this Agreement.

Prompt Payment and Return of Retainage

- A. All payments, including payments by the CONTRACTOR to any third-party, shall be made in accordance with, and in the time specified in, California Government Code, Chapter 4.5, commencing with Section 927.
- B. The CONTRACTOR shall not withhold retention from any subcontractor, nor shall the Awarding Agency withhold retention from CONTRACTOR.
- C. The CONTRACTOR must pay subcontractors within 7 days of receipt of each progress payment under Public Contract Code Sections 10262 and 10262.5 or Business and Professions Code Section 7108.5, as applicable.

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 4 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.

Contract Work Hours and Safety Standards Act (Applicable to: Construction contracts and, in very limited circumstances, non-construction projects that employ laborers or mechanics on a public work)

- A. The CONTRACTOR agrees to comply with Section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. Section 33 and also ensure compliance of its subcontractors; if applicable, CONTRACTOR shall comply with DOL regulations "Safety and Health Regulations for Construction" 29 CFR Part 1926.
- B. No CONTRACTOR or subcontractor contracting for any part of the 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 the rate of not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.