

## Agreement

This Agreement (the "Agreement"), dated July 1, 2016 is made by and between the Central Shenandoah Planning District Commission (the "CSPDC," also referred to in Exhibit E as the "Purchaser" and/or the "Recipient"), a Virginia regional government commission constituted as a public body corporate and politic and appointed by the Staunton-Augusta-Waynesboro Metropolitan Planning Organization (the "SAWMPO") to serve as its administrator, and Virginia Regional Transit, a Virginia Corporation ("THE CONTRACTOR," "CONTRACTOR," or "Contractor"), a private Virginia non-profit, non-governmental corporation and independent CONTRACTOR.

### 1. Recitals

- 1.1. By Memorandum of Understanding dated November 7, 2012, the localities of the City of Staunton, the County of Augusta, and the City of Waynesboro established the SAWMPO to carry out various functions consistent with federal and state law, including those under the provisions of Virginia Code §33.1-223.2:25 with respect to transportation planning and improvement programs, and the SAWMPO designated the CSPDC as its administrator.
- 1.2. As the administrator of the SAWMPO, the CSPDC also has agreed to serve as the Designated Recipient of what is known as the Section 5307 funds, under the provisions of 29 U.S.C. §5307, from the Federal Transit Administration (the "FTA") for what is now after the 2010 U.S. Census identified as the Staunton Urbanized Area comprised of portions of the City of Staunton, portions of the County of Augusta, and portions of the City of Waynesboro (the "Area") as shown on **Exhibit A**.
- 1.3. THE CONTRACTOR represents that it is in the public transportation business and is in good standing as a Virginia corporation and will provide the services ("Services") described on **Exhibit B**, through this contract, for the Area, utilizing the transit facility located at 51 Ivy Ridge Lane, Fishersville, VA 22939 and operating for such purposes during the Term a fleet of transit vehicles adequate to provide the services described on **Exhibit B**.
- 1.4. The CSPDC is eligible to receive certain funds from both the Virginia Department of Rail and Public Transportation ("DRPT"), and from the FTA under the provisions of 29 U.S.C. §5307, for public transportation services, and desires on behalf of the SAWMPO to engage THE CONTRACTOR to perform public transportation services in the Area beginning and continuing after July 1, 2016 for the period specified in this Agreement.
- 1.5. Nothing in this Agreement shall obligate or be construed to obligate or create any expectation that any locality, including a SAWMPO locality, increase its existing local funding for purposes of this Agreement regardless of the

circumstances, including the compensation to be paid to the CSPDC for its services.

- 1.6. The CSPDC issued a November 1, 2013, Request for Proposals and THE CONTRACTOR submitted a December 2, 2013, proposal. The CSPDC entered into an eighteen-month agreement (the "Prior Agreement") with THE CONTRACTOR at that time; subsequently exercised a one-year extension of the Prior Agreement in July, 2015; and has determined to enter into this Agreement with THE CONTRACTOR.
- 1.7. THE CONTRACTOR acknowledges that this Agreement is solely for the period as specified and that the CSPDC intends, absent unanticipated circumstances, to competitively procure such services for any subsequent period(s).
- 1.8. The CSPDC and THE CONTRACTOR set forth in this Agreement their understandings in regard to services to be performed by THE CONTRACTOR and the other aspects of the relationship and rights and obligations between the CSPDC and THE CONTRACTOR.
- 1.9. The CSPDC and THE CONTRACTOR represent and warrant that their respective signatories to this Agreement have authority to enter into this Agreement.
- 1.10. These recitals are an integral part of this Agreement.

## 2. **Term**

The term of this Agreement shall commence on July 1, 2016, at 12:01 A.M. and shall expire on March 31, 2017, at midnight (the "Term"). CSPDC reserves the right to terminate this Agreement prior to March 31, 2017, by providing 30 days written notice to the CONTRACTOR of the termination date. This agreement may be extended beyond March 31, 2017, with the written permission of the Federal Transit Administration.

## 3. **THE CONTRACTOR's Obligations**

During the Term, THE CONTRACTOR shall provide the Services in accordance with the scope of work as described in **Exhibit C ("Scope of Work")**. THE CONTRACTOR shall ensure that all drivers are properly licensed and trained and monitored in strict accordance with all applicable laws, regulations, and rules and conditions, including those conditions, certifications and assurances prescribed by state and federal regulatory and funding agencies. Operational aspects of providing Service for the Area includes, but is not limited to, the following functions and duties at no additional cost or charge to the CSPDC:

- 3.1. Engaging vendors or subcontracting to other firms, corporations, partnerships, agencies, or individuals to perform or provide services or goods: THE

CONTRACTOR shall have authority to enter into contracts in its own name for services or goods that THE CONTRACTOR desires for the performance of the Services in accordance with the Scope of Work, including vehicle maintenance. THE CONTRACTOR shall not represent or indicate that it has any authority to do so except in its own name and for its own liability. THE CONTRACTOR is required to follow FTA C4220.1F for any of its procurements related to this Agreement.

- 3.2. Monthly and Quarterly Reports: THE CONTRACTOR shall provide the CSPDC with reports and data as directed by the CSPDC, including but not limited to ridership, fare collections, service hours, token sales, ADA service delivery, maintenance, customer service, Drug and Alcohol Testing, and Facility and Equipment Maintenance.
- 3.3. Legal and Regulatory Compliance: THE CONTRACTOR shall ensure that its performance of the Services is in conformity with all legal and regulatory compliance, and certification and assurance compliance with the requirements of the FTA under the FTA Master Agreement and the Master Agreement for the Use of Commonwealth Transportation Funds and with the requirements of DRPT and any other applicable agreement, laws, regulations, and rules and standards that relate to THE CONTRACTOR's operations and Services in the Area. This provision shall survive the expiration or termination of this Contractual Agreement.
- 3.4. Insurance: During the Term The CONTRACTOR shall maintain insurance coverage and limits as reflected in **Exhibit D ("Insurance")**, providing prior to July 1, 2016, to the CSPDC a certificate to evidence such insurance that also includes confirmation that CSPDC is a named additional insured to whom at least thirty (30) prior days' notice shall be given before any cancellation or termination. The provisions of this subsection shall survive the expiration or termination of this Agreement, including any Extension Period.
- 3.5. Inquiry, Reporting and Audit Cooperation: At no additional cost to CSPDC, THE CONTRACTOR shall cooperate fully with the CSPDC in providing data and other information, data, certifications and assurances as may reasonably be needed by the CSPDC or as may be specified by any governmental agency or regulator upon inquiry or for any kind of audit or reporting and compliance of the CSPDC, maintaining all files related to this Agreement and the Services for not less than three (3) years after the funding agreements have closed or longer as may be legally prescribed. The foregoing provision of this subsection shall survive the expiration or termination of this Agreement, including any Extension Periods. THE CONTRACTOR shall be responsible for completing and submitting to CSPDC certain forms as reasonably designated by CSPDC including, but not limited to: completed daily driver reports, monthly operating data, and any other reasonable data as requested by CSPDC according to requirements of the Federal Transit Administration's (FTA's) National Transit Database.

- 3.6. Vehicle Maintenance Records. THE CONTRACTOR shall fully document in a timely manner all vehicle preventative maintenance activities, vehicle corrective repairs, vehicle accessibility equipment repairs and preventative maintenance, and vehicle cleaning. CSPDC will have access to all maintenance records at the Fishersville Transit Facility office, with reasonable prior day notice.
- 3.7. Drug and Alcohol Testing Records and Data. THE CONTRACTOR shall fully document all testing records in full compliance with the current Federal Transit Administration (FTA) regulations for drug and alcohol testing. This shall include records for pre-employment, random, post-accident, self-reporting, reasonable suspicion, and follow-up testing. Such records shall be maintained in accordance with FTA regulations and THE CONTRACTOR shall allow CSPDC to review such records at the Fishersville Transit Facility office with reasonable prior day notice. THE CONTRACTOR shall report drug and alcohol testing data, and facility monitoring reports to CSPDC as requested. CSPDC acknowledges that the disclosure of identity may be restricted, and CSPDC agrees to maintain all such information obtained from the CONTRACTOR in accordance with all applicable laws, regulation, ordinances, or rules.
- 3.8. Training Records. THE CONTRACTOR shall maintain records of all employees training and allow CSPDC to review such records upon request. THE CONTRACTOR shall preserve and make available all such records listed above during the term of the Agreement and for a period of three (3) years from the date of final payment. Administrative costs relating to recordkeeping and data collection shall be at THE CONTRACTOR's expense. CSPDC acknowledges that the disclosure of some records may be restricted by applicable laws, regulations, ordinances or rules. To the extent permitted by law, CSPDC agrees to maintain all such information obtained from THE CONTRACTOR as confidential and in accordance with all applicable laws, regulations, ordinances, or rules.

#### **4. Vehicles**

- 4.1. During the Term, THE CONTRACTOR shall provide all vehicles necessary to meet its obligations with respect to the Services as described in Exhibits B and C to this Agreement. Furthermore, THE CONTRACTOR shall be responsible for providing any additional or spare vehicles necessary to ensure seamless delivery of the Services as described in Exhibits B and C to this Agreement in the event that passenger needs increase or vehicles are temporarily or permanently out of service.

#### **5. Term Budget and Compensation**

- 5.1. The hourly service rate for this Agreement is \$58.75 for the Term of the Agreement. From July 1, 2016, to March 31, 2017, the total compensation is not to exceed \$950,000 or (16,170 service hours times \$58.75 per hour).



5.2. As compensation for the Services, the CSPDC shall pay THE CONTRACTOR for the services hours by route provided. THE CONTRACTOR shall submit monthly invoices to the CSPDC based on the amount of services actually provided as documented in the invoice for the monthly period and CSPDC shall remit payment within thirty (30) days after receipt of an invoice containing the information required to be provided on such invoice. CSPDC will notify THE CONTRACTOR within five (5) working days of any parts of the invoice in dispute and will only withhold payment on those parts of the invoice that are in dispute.

## **6. Indemnification**

THE CONTRACTOR shall indemnify, defend and hold harmless the CSPDC, CSPDC localities, the SAWMPO and the SAWMPO localities and transit funding partners (Augusta Health, Wilson Workforce Rehabilitation Center, Shenandoah Valley Social Services, and Staunton Downtown Development Association), and all their representatives, employees, agents, and officers from any and all claims, lawsuits, proceedings, liabilities costs and expenses of any nature whatsoever, resulting from or related to THE CONTRACTOR's actions or omissions in exercising or failing to exercise its operational authority. In no event; however, shall THE CONTRACTOR be liable to CSPDC for any consequential, punitive, or other damages, or for any claims, liabilities, or other losses of any kind, in excess of the amount of out-of-pocket losses actually incurred or suffered by the CSPDC, CSPDC localities and transit funding partners, the SAWMPO and the SAWMPO localities and their representatives, employees, agents, and officers. The provisions of this subsection shall survive the termination or expiration of this Agreement, including any Extension Period.

## **7. Termination**

The CSPDC reserves the right to terminate the contract if THE CONTRACTOR does not perform as required by the terms of the Agreement, subject to the written notice and cure provisions of Section 9.4 below. Reasons for termination may include, but are not limited, to the following:

- 7.1. Failure to adhere to tasks and Services outlined in Exhibits B and C to this Agreement.
- 7.2. Failure to provide sufficient personnel and equipment to complete the Services. THE CONTRACTOR may terminate this Agreement if CSPDC fails to pay THE CONTRACTOR the amount when due to be paid hereunder, subject to the written notice and cure provisions of Section 9.4 below.

## **8. Required Clauses and Certifications Incorporated**

- 8.1. This Agreement includes and incorporates all required clauses attached hereto as Exhibit E ("Required Clauses").

- 8.2. This Agreement includes and incorporates all required certifications, attached hereto as **Exhibit F ("Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions")** and **Exhibit G ("Certification Regarding Lobbying")**.

## 9. Miscellaneous

- 9.1. This Agreement shall be binding upon the parties and their respective successors and permitted assigns. This Agreement contains the final agreement between the parties, and the parties shall not be bound by any terms, conditions, oral statements, warranties or representations not contained in this Agreement or in a subsequently authorized and executed written instrument. This Agreement shall not be modified, except by a written instrument signed by the authorized representatives of the parties hereto.
- 9.2. The waiver or approval by either party of or under any term or condition of this Agreement at any time shall not be deemed a waiver or approval unless provided in writing by an authorized representative of the waiving or approving party. No waiver or approval given shall be deemed to apply to such term or condition as to any other matter or aspect or for any subsequently required waiver or approval. A waiver of any failure to perform under this Agreement shall neither be construed as nor constitute a waiver of any subsequent failure.
- 9.3. This Agreement shall be construed under the laws of the Commonwealth of Virginia, without reference to choice of law rules or principles, and any dispute related hereto shall be filed, maintained and heard exclusively in the state courts for the County of Augusta, Virginia. All provisions of the Federal Transit Administration (FTA Circular 4220.1F) and Virginia Public Procurement Act (Va. Code §2.2-4300 et seq.) and successor provisions, as required to be included in this Agreement as part of THE CONTRACTOR's obligations, are incorporated by reference, including but not limited to requirements for non-discrimination, prompt payment, drug-free workplace, federal immigration law compliance, authority to transact business in Virginia, and inclusion in any proposal the identification number issued to the THE CONTRACTOR by the Virginia State Corporation Commission.
- 9.4. In the event of any non-monetary breach by either party, the non-defaulting party shall give the defaulting party written notice of such breach, detailing the breach and stating how the breach may be cured. The defaulting party shall cure such breach within thirty (30) days after receipt of notice of such breach unless such breach is not capable of cure within such period, in which case the time to cure shall be extended to allow the defaulting party a reasonable time to cure such breach but not later than thirty (30) additional days.

- 9.5. In the event of any monetary breach by either party, the non-defaulting party shall give the defaulting party written notice of such breach, detailing the amount then due and owing. The defaulting party shall pay the amount then due in full within thirty (30) days after receipt of notice of such breach.
- 9.6. Nothing in this Agreement shall constitute or be construed or interpreted to create any kind of agency, partnership, or joint venture relationship between the parties to this Agreement.
- 9.7. Nothing in this Agreement shall constitute or be construed or interpreted to waive or modify any immunity of any of the parties to this Agreement.
- 9.8. Captions used in this Agreement are solely for convenience and are not to be used for applying, construing or interpreting this Agreement.
- 9.9. Nothing in this Agreement shall create or be recognized to create and shall not be construed or interpreted to create any third-party beneficiary.
- 9.10. No rule of construction about the drafter of this Agreement shall be used to construe or interpret any provision or aspect of this Agreement, because it is stipulated that each party has had an equal opportunity to draft this Agreement, with the benefit of independent legal counsel of choice.
- 9.11. All notices given hereunder shall be in writing and shall be deemed duly given when personally delivered, when delivered by overnight courier, delivered electronically, or five (5) business days after being deposited in the United States mail, postage prepaid, first class, registered or certified, return receipt requested. All notices to be sent hereunder shall be delivered at the addresses designated below:

If to THE CONTRACTOR:

Virginia Regional Transit  
Attention: Bruce Simms, CEO  
109 North Bailey Lane  
Purcellville, VA 20132

With a copy to:

Mary Gayle Holden, Esq.  
109 North Bailey Lane, Suite 201  
Purcellville, VA 20132

If to the CSPDC:

Central Shenandoah Planning District Commission  
Attention: Bonnie S. Riedesel, Executive Director  
112 MacTanly Place  
Staunton, VA 24401

With a copy to:

Jason J. Hamm  
Litten & Sipe, LLP  
410 Neff Avenue  
Harrisonburg, VA 22801

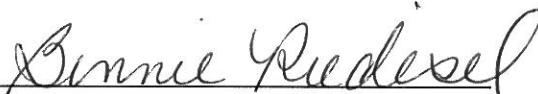
- 9.12. The parties shall each designate one or more representatives, each of whom shall be authorized by such party to make decisions on its behalf in regards to matters relating to this Agreement and the performance of the Services. The representatives initially shall be:

For THE CONTRACTOR: Bruce Simms  
For the CSPDC: Bonnie Riedesel

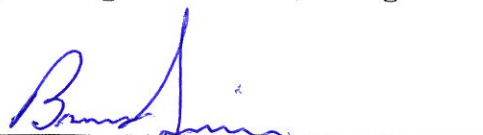
- 9.13. This Agreement shall not be and none of the rights or obligations under it may be assigned by any other party without the written consent of the other parties.

In witness hereof, the parties have executed this Agreement, intending to be found hereby.

**Central Shenandoah Planning District Commission**

By:   
Bonnie Riedesel, Executive Director

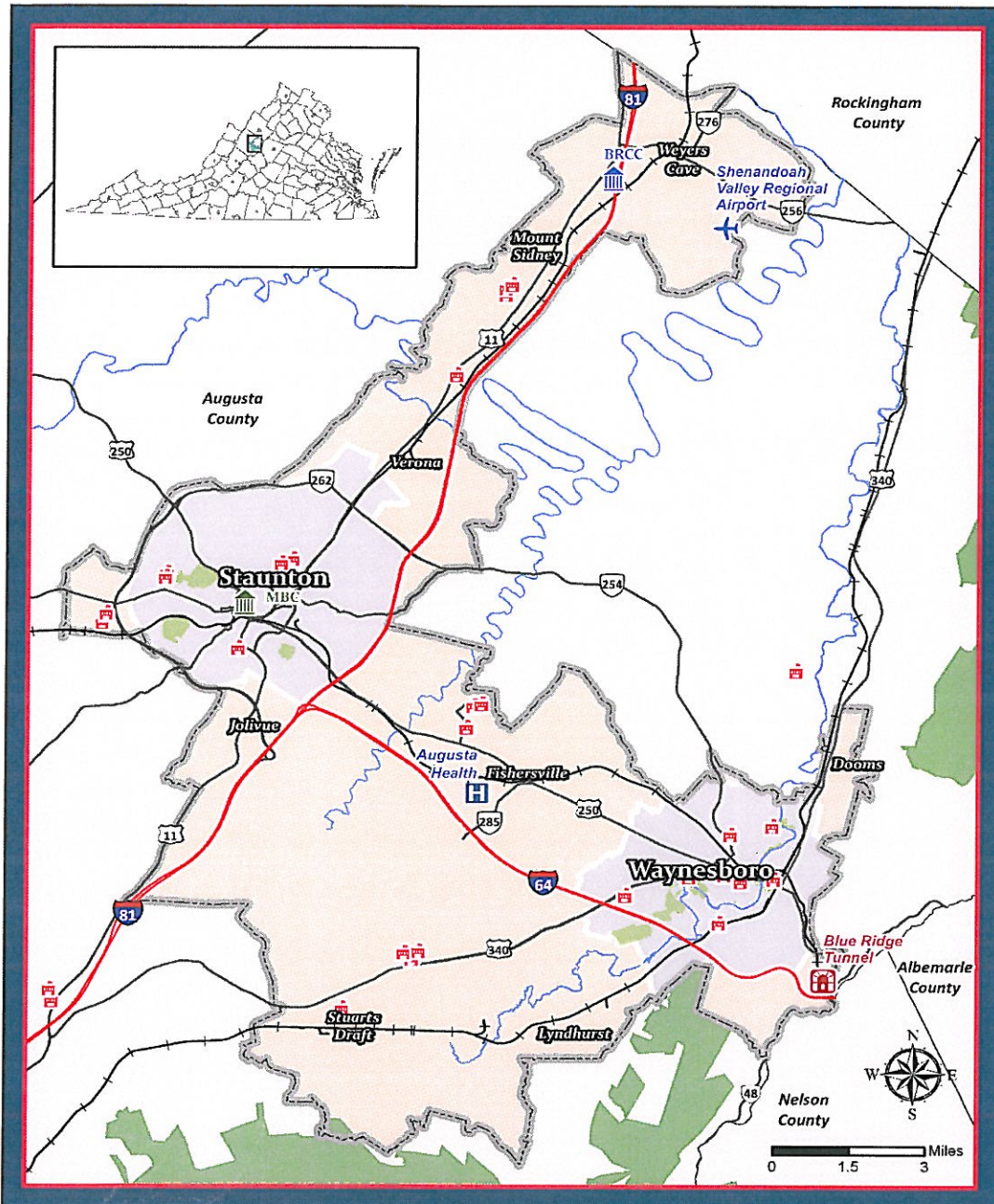
**Virginia Regional Transit, a Virginia Corporation**

By:   
Bruce Simms, CEO



## EXHIBIT A Service Area

The service area operates predominantly within the Staunton-Augusta-Waynesboro MPO boundaries. This service area will be reviewed annually by the CSPDC.



## EXHIBIT B Services

Services will be provided through both a Fixed/Deviated route service and a demand response service within the Cities of Staunton and Waynesboro and parts of the County of Augusta. The following is a Summary of the services for the transit routes and stops.

The **Downtown Trolley** provides Monday to Saturday service from 10:00 a.m. to 9:00 p.m., May 1 through October 31, and the remaining months of the year operates from 10:00 a.m. to 6:00 p.m. This route covers the downtown area, the Wharf and Gypsy Hill Park, and is required to be operated by a rubber tired trolley. The trolley passes every stop once approximately every half hour. The trolley has designated stops indicated by signs. However, drivers will try to pick up riders along the route if, in their judgment, it can be done safely and if their schedule permits.

The **North and West Loop** routes run from 8:00 a.m. until 9:00 p.m., weekdays. These routes serve many areas of the city connecting senior citizen communities, apartment complexes, the YMCA, and retail stores. The Loop routes connect to the Downtown Trolley and other transit routes at the Lewis Street Hub.

The **On Demand** service in Staunton operates 8.5 hours of service per day, Monday through Friday, and provides the complementary ADA service to the Staunton Routes. A second Route 250 **On Demand** service operating six hours per day will be introduced in September.

The **250 Connector** routes provide service between the cities of Staunton and Waynesboro stopping at Augusta Health and or the Wilson Workforce Rehabilitation Center. This service operates Monday through Friday between 7:30 a.m. and 9:30 p.m., and on Saturdays between 8:30 a.m. and 7:30 p.m. The Connector deviates from the fixed route to provide service to those residents of Augusta County who are ADA-certified and live within 3/4 miles of the route. Residents call to schedule curb-side pickup at least one day in advance. The Connector serves the following primary stops:

Locality	Primary Stops
Staunton	Lewis St. Hub, Kroger Statler Blvd, Staunton Mall, Walmart, Richmond Road
Fishersville	Augusta Medical Center, Fishersville WWRC, Fishersville
Waynesboro	K-Mart Route 250, Walmart

The **Waynesboro Circulator** provides service within the City of Waynesboro with stops at senior citizens' communities, apartment complexes, the library, YMCA, Social Services, and local shopping centers. This service operates from 6:30 a.m. to 6:30 p.m. Monday through Friday and serves each stop on the designated route once per hour. The Circulator deviates from the fixed route to provide service to those residents of Waynesboro who are ADA-certified and live within 3/4 miles of the route. Residents call to schedule curb-side pickup at least one day in advance.



## **EXHIBIT C**

### **Scope of Work**

**System Oversight and Management:** The CONTRACTOR will be expected to service the routes indicated above with minimal adjustments providing buses, trolley(s) and drivers as necessary to meet the needs. The CONTRACTOR shall manage and operate the transit system in accordance with the terms of this Agreement.

In keeping with good management practices; day-to-day management and operations shall be vested in the CONTRACTOR's General Manager and supervisor, who shall be well versed in all aspects of deviated fixed-route, and ADA compliant transit operations. Planned and unanticipated absences of the General Manager are to be communicated to the CSPDC, and in the General Manager's absence, the supervisor will assume all duties and responsibilities of the General Manager. In addition, a responsible senior employee of the CONTRACTOR shall be available at all times, either by telephone or in person, to provide oversight and support, or make critical decisions. THE CONTRACTOR will provide CSPDC with the name/telephone number/email address of responsible person.

The CONTRACTOR shall be responsible for monitoring and reporting all aspects of system operation, including but not limited to: ridership, quality of service, route performance, safety and security, emergency preparedness, coordination of vehicle maintenance, fare collection, and performance of all personnel.

**Fare Revenue Collection:** The CSPDC and CONTRACTOR will jointly develop protocol to protect system-generated revenues and to accurately account for all CSPDC revenues, including but not limited to: handling of cash fares, pass sales (if implemented), count security, fare box reconciliation, deposit procedures, and notification of daily records.

**ADA Compliant Paratransit service:** FTA Compliant paratransit service is provided through a combination of On-demand and deviated fixed route service. The CONTRACTOR is responsible for all aspects of the paratransit service including but not limited to the application and certification process; reservations; scheduling of trips; tracking of service delivery including no-shows, late pickups, and excessively long trips, client complaints, and reporting same to the CSPDC.

**Minimum Requirements for Employees:** The CONTRACTOR shall ensure that all employees successfully complete THE CONTRACTOR orientation and training, a DOT physical, criminal background investigation and pre-employment drug test before employees are allowed to start working. In addition, the CONTRACTOR shall perform a motor vehicle record check on all employees at the time of hire, and at least annually thereafter; with an appropriate rating system to determine whether employees qualify to drive or continue driving CONTRACTORs vehicles.

**Drug and Alcohol Testing:** The CONTRACTOR shall establish and maintain a drug and alcohol testing program for all safety-sensitive employees. The program shall include at least pre-employment, reasonable suspicion, post-accident and random testing, per FTA requirements. If the CONTRACTOR has a "second chance" policy, the program shall comply with FTA requirements.

**Vehicles:** The CONTRACTOR will provide adequate vehicles for the service area including a rubber wheeled trolley type vehicle for the Downtown Trolley route. The CONTRACTOR will provide an adequate number of spare vehicles, equal in capacity and similarly equipped, to insure seamless operation of all routes. All vehicles are to be ADA accessible, meet minimum capacity guidelines, and are to be equipped with front and side illuminated destination signs.

**Systems:** The CONTRACTOR shall provide all software and hardware integral to the ADA certification and reservation process. Additionally, all systems necessary to the collecting and storing of transit data, and the production of reports is the responsibility of the CONTRACTOR.

**Facility:** The CONTRACTOR is responsible for providing an adequate facility near the service area for housing of the required on-site administrative/operations staff, storage of vehicles, and cleaning of transit service vehicles for use by the CONTRACTOR. Such facility shall include telephone service, vehicle communications capability, dispatching, and general office support functions to ensure prompt response times. Cost of the facility is at the expense of the CONTRACTOR. Such facility shall be located near the service area to minimize deadhead vehicle miles and cost.

**Vehicle Maintenance:** The CONTRACTOR shall be responsible for vehicle maintenance and records including but not limited to:

- Preventive maintenance.
- Correction of reported vehicle defects.
- Fueling
- Daily cleaning of interiors and exteriors.
- Manufacturer recalls.
- Necessary road calls.
- Maintaining all records related to vehicle maintenance by establishing a separate file for each vehicle by unit number. The file for each vehicle shall be retained until such time as the vehicle is disposed.

The CSPDC reserves the right to inspect vehicle maintenance records at any time upon request and further provided that such inspection shall not impede the performance of the Services. The CSPDC expects the buses to be clean (weather permitting) and in good working condition at all times for the sake of public image and customer satisfaction. The CSPDC may inspect for bus cleanliness at any time upon request and further provided that such inspection shall not impede the performance of the Services.

All non-safety deficiencies shall be repaired within seven (7) calendar days. Vehicles with deficiencies are subject to re-inspection by CSPDC to ensure that corrective repairs are properly made. All costs associated with the CONTRACTOR's personnel in getting vehicles to/from and during inspections shall be the CONTRACTOR's expense. All costs associated with correcting identified vehicle deficiencies shall be at the CONTRACTOR'S expense.

All revenue vehicles shall be equipped at all times with the following safety and accessibility equipment: a fire extinguisher (with up-to-date annual inspection tag), first-aid kit blood-borne pathogen kit, two (2) complete sets of wheelchair tie-down belts or devices, functioning communications equipment, and a set of safety triangles. (An alternative or expanded list of safety and accessibility equipment can be suggested.)

**Vehicle Pre-trip Inspections:** The CONTRACTOR shall require bus operators to perform a daily pre-trip inspection of the vehicle, using a standardized pre-trip inspection checklist. The checklist shall cover all items inside and outside the vehicle that affect the safe operation of the vehicle, and provide space where the operator may indicate vehicle defects that need to be corrected. Hardcopy or electronic Pre-trip Inspection reports are to be retained for a period of not less than three months.

**Signage and Passenger Amenities:** The CONTRACTOR shall assume responsibility for the current bus stop signs, passenger shelters, benches and trash receptacles during the Term. The CONTRACTOR is responsible for the installation, repair, re-location and removal of signage and passenger amenities as needed by the service. CONTRACTOR is responsible for installation of striping, and logos on the buses as directed by the CSPDC. Extraordinary expenses related to “bus-branding” will be reimbursed by the CSPDC with advance authorization.

**Scheduling and Dispatching:** The CONTRACTOR shall be responsible for the scheduling and dispatching of its own employees, doing so in such a way that adequate staffing levels are maintained at all times and continuous service is provided to the public during all scheduled hours of operation. The CONTRACTOR shall ensure that all dispatch employees are trained to proficiency in the use of all equipment for the efficient and effective operation of public transportation services.

**Communication System:** All vehicles will be equipped with a two-way radio system that allows constant and immediate contact with the dispatcher / supervisor. The CONTRACTOR shall be responsible for training its employees to proficiency on the proper use of radio equipment, in keeping with FCC requirements.

**Technology Requirements:** The CONTRACTOR shall provide the technology required to operate the transit system in an efficient and effective manner, including but not limited to: computer hardware and software, telephones, radios and office equipment. The CONTRACTOR shall be responsible for training its employees to proficiency on the proper use of such technology.

**Staffing and Supervision:** The CONTRACTOR shall be responsible for hiring and properly training all personnel necessary to successfully complete the project including drivers, maintenance personnel, dispatchers, and supervisors.

The CONTRACTOR shall maintain a Supervisor on-call and accessible to CSPDC staff during all hours that transit service is in operation. The Supervisor shall be the point of contact for communication between CSPDC and the CONTRACTOR regarding aspects of

the service and its management. The Contactor's Supervisor on-call shall be regularly accessible to CSPDC staff to deal with daily operational issues and to resolve policy issues. The CONTRACTOR shall also provide an emergency contact person for CSPDC for unforeseen circumstances outside normal service operating hours.

Telephone information lines shall be staffed by knowledgeable and courteous customer information personnel Monday through Friday from 8:00 a.m. – 5:00 p.m., and provision shall be made for after hour messages.

**Dispatching:** The CONTRACTOR shall be responsible for provision of service in a safe, efficient, and effective manner. Dispatching shall be carried out in a manner which maximizes the productivity of service, while meeting the standards for service quality set forth in this Agreement.

**Operators:** In assigning drivers to transit service, the CONTRACTOR shall ensure that all transit service operators / drivers meet the following minimum requirements:

- All drivers shall treat transit service riders with courtesy and respect at all times.
- All drivers shall be trained by THE CONTRACTOR to develop a good knowledge of the entire service area in order to answer customer questions and efficiently and effectively provide scheduled service.
- All drivers shall be properly trained in compliance with all applicable state or federal requirements in the operation of any vehicle they operate including all safety training and accessibility equipment, including but not limited to proper wheelchair restraint and passenger assistance techniques. CONTRACTOR shall maintain documentation of all such training and provide it to CSPDC upon request.

All drivers shall be properly trained with respect to drug and alcohol awareness, defensive driving, and passenger assistance techniques. CONTRACTOR shall maintain documentation of all such training and provide it to CSPDC upon request.

- All drivers shall be properly attired and shall maintain a positive image for the transit system.
- All drivers must maintain a valid license and Department of Transportation (DOT) medical exam (if applicable) in the State of Virginia at all times for the type of vehicle they drive in the transit service.
- All drivers shall refrain from the use of tobacco products of any kind while driving.
- All drivers shall comply with all applicable laws regarding the use of personal cellular, texting or mobile phones or other personal telecommunications devices while driving.
- The CONTRACTOR shall not hire any person as a driver if such person has, at the time of hiring:
  - More than two (2) moving violations (personal or professional) in the last three (3) years.
  - More than one (1) at-fault accident (personal or professional) with citation issued in the last three (3) years.

- Any conviction for driving under the influence of alcohol or drugs or driving while impaired in the past seven (7) years.
- A conviction for reckless driving within the past four (4) years.
- A conviction for leaving the scene of an accident in the past four (4) years.
- A felony conviction of a crime of moral turpitude in the past seven (7) years.

The CONTRACTOR shall review and maintain the driving record at least annually of all employees who drive transit service vehicles to ensure the minimum requirements are met with respect to the driving record of CONTRACTOR employees.

*CSPDC reserves the right to require the CONTRACTOR to remove any CONTRACTOR employee from driving a vehicle for the CSPDC transit service program under this Agreement if such CONTRACTOR employee violates one of the minimum requirements set out above.*

*CSPDC shall have no liability or obligation to the CONTRACTOR or the CONTRACTOR's employee who by reason of a violation of the above minimum requirements is removed from the CSPDC transit service program under this Agreement.*

**CONTRACTOR's Driver Responsibilities:** The primary responsibility of the CONTRACTOR's drivers shall be the safe operation of vehicles and safe transport of transit service customers. The CONTRACTOR shall take all necessary steps to ensure that drivers and other CONTRACTOR employees are properly trained and proficient with respect to all elements of safety in the operation of vehicles and transport of passengers.

Driver responsibilities include but are not limited to the following:

- Conducting a proper pre-trip inspection of the vehicle prior to leaving the CONTRACTOR's facility and documenting the inspection.
- Wearing seat belts at all times while vehicles are in operation.
- Ensuring that passengers are encouraged via signage to wear seat belts where available at all times while vehicles are in operation.
- Using the highest degree of care in loading, unloading, and securing all wheelchairs, scooters and other passenger accessibility devices.
- Properly assisting all passengers with safe entry and exit from the vehicle.
- Driving safely and displaying proper respect and courtesy to other motorists, bicyclists or pedestrians.
- Obeying and following all traffic laws and regulations at all times.
- Not driving any CONTRACTOR vehicle while under the influence of alcohol or drugs.
- Reporting all vehicle or passenger accidents immediately to the CONTRACTOR's dispatcher.
- Not leaving the scene of any vehicle or passenger accident without the permission of proper authorities and/or the CONTRACTOR's dispatcher.
- Utilizing all safety and emergency equipment properly and at appropriate times.
- Having valid driver's license and Department of Transportation (DOT) medical exam (if required) in possession at all times while operating CONTRACTOR's vehicle.



- Reporting road calls to the CONTRACTOR's dispatcher promptly.
- Treating all passengers and the general public with courtesy and respect at all times.
- Respect all of the transit system and use best efforts to keep tensions low and ensure safety at all times when dealing with difficult users or situations.
- Having good knowledge of the service area to ensure efficient and effective service.
- Collecting proper fares from all passengers. CSPDC supports the policy of providing assistance to those clients who indicate they do not have the fare. Driver will maintain records of those uncollected fares.
- Notifying the CONTRACTOR's dispatcher prior to leaving a scheduled pickup if the customer is a no-show.
- Legibly recording actual pickup and drop-off times and no shows/cancellations on the demand service daily driver manifest. All routes will record actual mileage, and any other pertinent data.
- Wearing official uniforms in a neat and appropriate manner.
- Properly identifying themselves to customers upon request.
- No eating, drinking, smoking or playing loud music while operating a vehicle.
- Providing for customer comfort by keeping the vehicle interior at comfortable temperatures at all times.
- Not entering any customer's home or other private residence at any time.
- Turning the vehicle engine off and removing the keys from the ignition and carrying them on the driver's person in the event the driver has to leave the vehicle.
- Allowing ambulatory passengers to use the wheelchair lift upon request of the passenger.

**Triennial Review:** The triennial review is one of the FTA's management tools for examining performance and adherence to current FTA requirements and policies. It examines how recipients of Program funds meet statutory and administrative requirements and is performed on a tri-annual basis. The CONTRACTOR is expected to provide to the CSPDC any data and information required by the FTA in the performance of the review as well as provide access to any and all data, information, or work areas to the review team during the site visit performed as part of the review. Furthermore, the CONTRACTOR will endeavor to rectify any negative findings in the triennial review of the CONTRACTOR's performance, and to assist CSPDC with any negative finding relating to CSPDC's administration of this Agreement.

**Record Retention:** Records which relate to litigation or the settlement of claims arising out of the performance of the resulting agreement, or costs under the resulting agreement as to which exception has been taken by the auditors, shall be retained by the CONTRACTOR until such litigation, claims, or exceptions have reached final disposition.

**Right of Entrance to the Transit Facility or Buses:** The CONTRACTOR shall permit and allow any and all duly authorized CSPDC employees or representatives to enter the Transit Facility for the purpose of inspecting facilities and equipment, inspecting and/or auditing financial or operating records, and for other matters relevant to the project. The CONTRACTOR shall instruct its drivers to allow CSPDC personnel, and official representatives of FTA and its representatives to have right of entry on vehicles upon showing proper identification. All such entry and inspection by CSPDC or its employees or agents shall be undertaken in such a way as to not impede the performance of the Services by the CONTRACTOR and its employees.



**Policies and Procedures:** The CONTRACTOR shall be responsible for developing and enforcing its own policies and procedures related to human resources management. The CONTRACTOR shall NOT be authorized to alter service configuration or timetables without the express written consent of the CSPDC.

**Training:** The CONTRACTOR shall be responsible for properly training all personnel necessary to successfully complete the project including drivers, dispatchers, reservationists and supervisors. All training costs shall be at the expense of the CONTRACTOR. At a minimum, all CONTRACTOR employees shall be trained as follows:

- Commercial Driver License (CDL) of the appropriate class and endorsement.
- Vehicle orientation.
- Vehicle inspection.
- Vehicle operations.
- Defensive driving.
- Customer relations (including dealing with difficult passengers).
- Sensitivity to the elderly and persons with disabilities.
- Street operations.
- Radio protocol.
- Safety and security.
- Driving in inclement weather.
- Accident and incident procedures and emergency management.
- Other training that would benefit a vehicle operator is encouraged but not required, such as but not limited to: blood borne pathogens, First Aid/CPR, elder abuse training, and personal safety training.

Upon hiring, provide for drugs and alcohol training for all supervisors.

**Drug and Alcohol Testing:** The CONTRACTOR shall establish and maintain effective procedures for pre-employment, random, self-reporting, post-accident, reasonable suspicion and follow-up drug and alcohol testing of all safety sensitive employees in full accordance with regulations as promulgated by the U.S. Department of Transportation and/or Federal Transit Administration (FTA), as amended. This shall also include regulations relative to the Drug Free Workplace Act.

As an employer, the CONTRACTOR is responsible for meeting all applicable requirements and procedures of the U.S. DOT and FTA and for all actions of its officials, representatives, and agents. The CONTRACTOR's good faith use of a service agent is not a defense in an enforcement action initiated by a DOT agency in which CONTRACTOR non-compliance may have resulted from a service agent's conduct. All costs associated with compliance with all aspects of drug and alcohol testing regulations and the Drug Free Workplace Act are the full responsibility of the CONTRACTOR.

**Safety and Security:** At the future direction of the CSPDC, The CONTRACTOR may be required to establish and manage all aspects of a safety and security program including, policies, administration and procedures, personnel and training, safety reporting, and safety

training. The CONTRACTOR shall document and report security expenditures, manage and account for identifying security problems, employee selection, training, public awareness, audits and drills, document control, access control and homeland security as it pertains to 49 USC Chapter 53, Federal Transit Act, Section 5307(D)(1), Security Expenditures; 49 CFR Part 630. "Uniform System of Accounts and Records and Reporting," 49 CFR Part 659, and "Rail Fixed Guideway Systems, State Safety Oversight", as appropriate.

**Accident/Incident Reporting:** All accidents involving a transit service vehicle that result in any personal injury to passengers, drivers or the general public or that result in damage to transit service or other vehicles and/or other property, regardless of severity, shall be reported verbally or by phone or fax or electronic mail to CSPDC immediately.

A complete written report in compliance with applicable state and federal requirements shall be forwarded to CSPDC providing details within twenty four (24) hours of the accident. The CONTRACTOR shall make its employees available to CSPDC for interview as part of CSPDC's effort to determine if the accident was preventable.

All requests for information from the media concerning accidents or incidents shall be the responsibility of CSPDC. It is the CONTRACTOR's responsibility to educate staff on this requirement.

**Customer Service:** The CONTRACTOR shall be responsible for the customer service functions of the transit system including but not limited to: answering questions, responding to requests, distributing route brochures, implementation of a pass system if CSPDC makes that decision, driving buses safely and smoothly, and keeping the vehicles clean. The CONTRACTOR shall be responsible for providing outstanding customer service in keeping with the CSPDC's and other service area stakeholder's expectations.

**Complaint Procedures:** The CONTRACTOR shall be responsible for handling customer complaints regarding the transit service, and shall develop and maintain a system for taking, recording and resolving such complaints in a timely manner. The CONTRACTOR shall have a standardized form on which office staff may collect information, and ensure that a supervisor or manager responds to all customer complaints within twenty-four (24) hours, when possible. The CONTRACTOR shall document and forward in writing any complaints it may directly receive from a transit services customer along with a description of its action(s) to resolve the complaint to the CSPDC as soon as reasonable, or at a minimum during the monthly reporting function.

**Marketing/Public and Media Relations:** The CSPDC shall provide all marketing, public relations and media relations for the transit system. Any service delivery related press releases must have the approval of the CSPDC prior to being released to the media.

**Performance Requirements:** The CONTRACTOR shall strive to maximize ridership, fare box recovery and on-time performance; while minimizing road calls, vehicle damage and complaints. This shall be accomplished by initial and ongoing employee training, street supervision, random checks, corrective personnel actions, and standards that may be established by the CSPDC.

**Monitoring and Reporting:** The CONTRACTOR shall be entirely responsible for the operation of the transit system, although designated CSPDC staff shall provide general oversight and support. The CSPDC shall establish certain reporting requirements on a monthly/annual basis, and may request reports on transit system performance at any time.

**Flexibility in Adjusting Services:** The CSPDC shall have the ability to increase or decrease the overall service hours based upon funding changes without having to amend the contract resulting from this RFP, provided those funding changes have been communicated to the CONTRACTOR in writing 60 days prior to the change. In the event that such changes require another vehicle, CSPDC shall provide a minimum of 120 days' notice.

**EXHIBIT D**  
**Insurance**

The Contractor is responsible to secure and maintain, at its own expense, the following types of insurance:

**General Liability:** THE CONTRACTOR shall provide and maintain comprehensive general liability coverage for bodily injury (including but not limited to sexual abuse or molestation) and property damage of \$5,000,000 combined single limit for any one occurrence.

**Automobile Liability:** THE CONTRACTOR shall provide and maintain automobile liability coverage for all revenue and non-revenue vehicles used in the project for bodily injury and property damage to a combined single limit of \$5,000,000 for any one occurrence.

**Collision and Comprehensive:** THE CONTRACTOR shall provide and maintain collision and comprehensive physical damage coverage on all revenue and non-revenue vehicles used by THE CONTRACTOR or under THE CONTRACTOR's care, custody or control. Coverage shall be in an amount acceptable to CSPDC but in no event less than replacement cost coverage that would be sufficient to replace damaged or totaled vehicles with vehicles of the same or similar functionality.

**Workers Compensation:** THE CONTRACTOR shall provide Employers Liability at \$1,000,000 each accident, each disease (employee), and each disease (aggregate).

**Unemployment Insurance:** According to Virginia state law.

All insurance coverage required to be maintained or provided by THE CONTRACTOR must be with insurance companies licensed and admitted by the State of Virginia.

All comprehensive general liability, automobile liability, collision and comprehensive policies must name CSPDC as additional insured.

Certificates of insurance (except unemployment insurance) are to be submitted to CSPDC on an annual basis and when carriers or coverage limits change.

All insurance costs shall be at the expense of THE CONTRACTOR. Failure to maintain all insurance coverage's for the duration of the project as listed above may result in immediate termination of contract.

**EXHIBIT E**  
**Required Clauses**

**Charter Service Operations** - The Contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

**School Bus Operations** - Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

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

**Clean Water:**

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, in its discretion or if required by law report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
2. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

**Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]** - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract,

grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

**Access to Records** - The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a Sub-grantee 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 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.
2. Where the Purchaser is a State and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the 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. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where any Purchaser which is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. 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.
6. 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).

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

**Federal Changes** - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

**Clean Air:**

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
2. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA. No Obligation by the Federal Government.
  - (a) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
  - (b) The Contractor agrees to 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 subcontractor who will be subject to its provisions.

**Program Fraud and False or Fraudulent Statements or Related Acts**

1. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the

truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

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

### **Termination Provisions**

1. **Termination for Convenience (General Provision).** The Recipient may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Recipient's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Recipient to be paid the Contractor. If the Contractor has any property in its possession belonging to the Recipient, the Contractor will account for the same, and dispose of it in the manner the Recipient directs.
2. **Termination for Default [Breach or Cause] (General Provision).** If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the Recipient that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Recipient, after setting up a new

delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

3. **Opportunity to Cure (General Provision).** The Recipient in its sole discretion may, in the case of a termination for breach or default, allow the Contractor ten days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

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

4. **Waiver of Remedies for any Breach.** In the event that Recipient elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by Recipient shall not limit Recipient's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
5. **Termination for Convenience (Professional or Transit Service Contracts).** The Recipient, by written notice, may terminate this contract, in whole or in part, when it is in the Recipient's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.
6. **Termination for Default (Supplies and Service).** If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the Recipient may terminate this contract for default. The Recipient shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

7. **Termination for Default (Transportation Services).** If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the Recipient may terminate this contract for default.

The Recipient shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract

price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of the Recipient, protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and Recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

### **Suspension and Debarment**

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The 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.

By signing and submitting its bid or proposal, the bidder or Proposer certifies as follows:  
The certification in this clause is a material representation of fact relied upon by the CSPDC.

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

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

1. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. §552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and

that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

2. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

**Civil Rights** - The following requirements apply to the underlying contract:

1. 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 agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:
  - (a) 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 agrees to comply with any implementing requirements FTA may issue.
  - (b) 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 agrees to comply with any implementing requirements FTA may issue.

(c) 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 agrees to comply with any implementing requirements FTA may issue.

3. The Contractor also agrees to 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.

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

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

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

**Remedies** - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the CSPDC and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in the General District or Circuit Court of Augusta County, Virginia.

**Rights and Remedies** - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the CSPDC or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

**Transit Employee Protective Provisions** - The Contractor agrees to comply with applicable transit employee protective requirements as follows:

1. General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit



operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. §5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. §5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

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

The Contractor also agrees to include any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

#### **Disadvantaged Business Enterprises**

1. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part

26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. A separate contract goal has not been established for this procurement.

2. 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 this 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 such other remedy as CSPDC deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
3. The successful bidder/offeror will be required to report its DBE participation obtained through race neutral means throughout the period of performance.
4. 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 Contract's receipt of payment for that work from CSPDC. In addition, the Contractor may not hold retainage from its subcontractors.
5. The Contractor must promptly notify CSPDC 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 Contract may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of CSPDC.

### **Incorporation of Federal Transit Administration (FTA) Terms**

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any CSPDC requests which would cause the CSPDC to be in violation of the FTA terms and conditions.

### **Drug and Alcohol Testing**

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 State Of Virginia, or the CSPDC, 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 July 15, 2016 and to submit the Management Information System (MIS) reports before July 15, 2016 to CSPDC.

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. The Contractor agrees further to [Select a, b, or c] (a) submit before (insert date or upon request) a copy of the Policy Statement developed to implement its drug and alcohol testing program; OR (b) adopt (insert title of the Policy Statement the recipient wishes the Contractor to use) as its policy statement as required under 49 CFR 655; OR (c) submit for review and approval before (insert date or upon request) a copy of its Policy Statement developed to implement its drug and alcohol testing program. In addition, the Contractor agrees to: (to be determined by the recipient, but may address areas such as: the selection of the certified laboratory, substance abuse professional, or Medical Review Officer, or the use of a consortium).

**Exhibit F**  
**Certifications Regarding Debarment, Suspension, Ineligibility and**  
**Voluntary Exclusion - Lower Tier Covered Transactions**

**Instructions for Certification**

1. By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the CSPDC may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the CSPDC if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29].
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the CSPDC.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non procurement List issued by U.S. General Service Administration.
8. Nothing contained in the foregoing shall be construed to require establishment of system

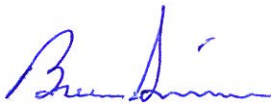
of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, the CSPDC may pursue available remedies including suspension and/or debarment.


Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction.”

1. The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it or 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.
2. When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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



\_\_\_\_\_  
*Signature of Contractor's Authorized Official*



\_\_\_\_\_  
*Name and Title of Contractor's Authorized Official*



\_\_\_\_\_  
*Date*



**EXHIBIT G-Certification Regarding Lobbying  
Certification for Contracts, Grants, Loans, and Cooperative Agreements**

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

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

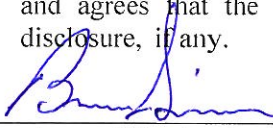
(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract,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

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

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

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

The Contractor, Virginia Regional Transit, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

  
\_\_\_\_\_  
*Signature of Contractor's Authorized Official*

*Bruce Simon / CEO*  
\_\_\_\_\_  
*Name and Title of Contractor's Authorized Official*

*6/3/16*  
\_\_\_\_\_  
*Date*