

## APPENDIX B

# REPRESENTATIONS AND CERTIFICATIONS



## **PART 1 - REPRESENTATIONS**

### **1. Business Information**

A. **Legal Name of Contractor** (*Note: This is the name reported to the IRS and should match the Federal ID number or Social Security number*):

---

B. **Type of Business Entity:**

☐ Sole proprietorship. Provide full name and address of owner:

---

---

☐ Limited Partnership. Provide full names and addresses of all partners:

---

---

☐ General Partnership. Provide full names and addresses of all partners:

---

---

☐ Limited Liability Company. Provide full names and addresses of all managing members:

---

---

☐ Corporation. Provide full names and addresses of all officers (add additional pages as needed):

<b>Name</b>	<b>Address</b>

## **PART 1 - REPRESENTATIONS**

C. **Doing Business As** (If applicable. *Note: This is the name that appears on invoices but is not the reporting name*):

---

D. **Name and Position of Person Completing this Certificate:**

---

E. **Physical Business Address:**

---

F. **Primary Correspondence Address (if different from physical address):**

---

### **2. Affiliation and Identifying Data**

Definitions:

- “Common parent,” as used herein, means that corporate entity that owns or controls an affiliated group of corporations that files its federal income tax returns on a consolidated basis, and of which the Offeror is a member.
- “Data Universal Numbering System (DUNS)” Number is a nine (9) digit number assigned by Dun and Bradstreet, Inc. A DUNS Number identifies a company's Dun & Bradstreet business credit file, which may include firmographic data (company name, address, phone number, etc.), corporate family relationships (headquarters, branches, subsidiaries, etc.), and scores and ratings that assess different financial health indicators.
- “Taxpayer Identification Number (TIN),” as used herein, means the number required by the Internal Revenue Service (IRS) to be used by the Offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

Each Offeror shall complete A, B, and C, below, representing that:

A. Taxpayer Identification Number (select one)

☐ TIN: \_\_\_\_\_

☐ TIN has been applied for.

☐ TIN is not required because: \_\_\_\_\_

☐ Offeror is a non-resident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States.

## **PART 1 - REPRESENTATIONS**

- ☐ Offeror is an agency or instrumentality of a foreign government.
- ☐ Offeror is an agency or instrumentality of the federal government.

### **B. Common Parent**

- ☐ Offeror is not owned or controlled by a common parent as defined above.
- ☐ Name, address, and TIN of common parent:

Name of Common Parent: \_\_\_\_\_

Main Office Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

TIN: \_\_\_\_\_

### **C. Data Universal Numbering Systems (DUNS) Number**

- i. The Offeror shall insert the DUNS number applicable to the Offeror's address entered on the Solicitation, Offer and Award Form:

DUNS Number: \_\_\_\_\_

- ii. If the Offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one, as follows:

- a) Via the Internet at <https://www.dnb.com/duns-number.html>, or if the Offeror does not have internet access, it may call Dun and Bradstreet at (844) 217-8755 if located within the United States; or
- b) If located outside the United States, by contacting the local Dun and Bradstreet office.

## **3. Virginia State Corporation Commission (SCC) Registration Information Requirement**

*Virginia Public Procurement Act (VPPA: § 2.2-4311.2), Compliance with state law; foreign and domestic businesses authorized to transact business in the Commonwealth.*

- A. *All public bodies shall include in every written contract a provision that a contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.*
- B. *Pursuant to competitive sealed bidding or competitive negotiation, all public bodies shall include in the solicitation a provision that requires a Bidder or Offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 to include in its bid or proposal the identification number issued to it by the State Corporation*

## **PART 1 - REPRESENTATIONS**

*Commission. Any Bidder or Offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid or proposal a statement describing why the Bidder or Offeror is not required to be so authorized.*

- C. Any Bidder or Offeror described in subsection B that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the Director of the Department of General Services or his designee or by the chief executive of a local governing body.*
- D. Any business entity described in subsection A that enters into a contract with a public body pursuant to this chapter shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract.*
- E. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.*

**By submission of this offer, the undersigned Offeror represents that it:**

- ☐ is a corporation or other business entity with the following SCC identification number:  
\_\_\_\_\_ **-OR-**
- ☐ is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**
- ☐ is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside of Virginia before they become contracts, and not counting any incidental presence of the Offeror in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from Offeror's out-of-state location) **-OR-**
- ☐ is an out-of-state business entity that is including with this offer an opinion of legal counsel which accurately and completely discloses the Offeror's current contracts with Virginia and describes why those contracts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.
- ☐ Check this box only if the Offeror has not completed any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow submission of the SCC number after the due date for proposals/bids (the Commission reserves the right to determine in its sole discretion whether to allow such waiver).

## **PART 1 - REPRESENTATIONS**

### **4. Previous Contracts and Compliance Reports**

- A. It ☐ has, ☐ has not, participated in a previous contract or subcontract subject to either the Equal Employment Opportunity clause of this solicitation, or the clause contained in Executive Order No. 11246, as amended by Executive Order 11375, and regulations in 41 CFR Part 60, that prohibits discrimination on the basis of race, color, age, religion, sex, sexual orientation, gender identity, or national origin; and
- B. It ☐ has, ☐ has not, filed all required compliance reports; and
- C. Representations indicating submittal of required compliance reports signed by proposed subcontractors will be obtained prior to subcontract awards.

### **5. Disadvantaged Business Enterprise**

“Disadvantaged Business Enterprise” means a small business concern (as defined by CFR Part 26 as amended) which is at least 51% owned by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least 51% of the stock is owned by one or more socially and economically disadvantaged individuals; and whose management and daily business operations are controlled by one or more socially and economically disadvantaged individuals who own it.

“Socially and Economically Disadvantaged Individuals” means those individuals who are citizens of the United States (or lawfully admitted permanent residents) who are Women, Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, or Asian Indian Americans and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act.

- A. It is ☐, is not ☐, a disadvantaged business enterprise.

By submission of this offer, the Offeror represents that:

- B. It ☐ is, ☐ is not, currently certified with the Virginia Department of Small Business and Supplier Diversity or the Metropolitan Washington Airport Authority, which are designated by the U.S. Department of Transportation as the certifying agencies for Commonwealth of Virginia, prior to submission of its offer.
- C. The Offeror represents that it ☐ is, ☐ is not, a transit vehicle manufacturer and ☐ has or ☐ has not complied with the DBE requirements of 49 CFR Part 26.

Special Certification for Requirements for Transit Vehicle Manufacturers. Each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA funded transit vehicle procurements, must certify that it has complied with the DBE requirements of 49 CFR Part 26.

## **PART 1 - REPRESENTATIONS**

### **6. Affirmative Action Compliance**

This representation is applicable to contracts of \$50,000 or more that are awarded to contractors with fifty (50) or more employees. By submission of this offer, the Offeror represents that:

- A. It has a workforce of \_\_\_\_\_ employees.
- B. It ☐ has developed and has on file, ☐ has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR §§ 60.1 and 60.2), or
- C. ☐ It has not previously had contracts subject to the written affirmative action program requirements of the rules and regulations of the Secretary of Labor.

### **7. Interest of Public Officials**

The Offeror represents and warrants that no employee, official, or member of the Board (Executive Committee) of the Commission is or will be pecuniarily interested in or benefited directly or indirectly as a result of this contract.

## **AFFIRMATION OF REPRESENTATIONS**

Under penalties of perjury, I affirm on behalf of the Offeror listed above that to the best of my knowledge and based upon reasonable inquiry, the information provided herein is true, correct, and complete.

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

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

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

## **PART 2 - CERTIFICATIONS**

### **1. Conflict of Interest**

- A. Offeror certifies no appointed or elected official, member or other officer or employee of the Commonwealth of Virginia, or of the Transportation District Commission of Hampton Roads (TDCHR or Commission), or their affiliates and subsidiaries: i) is interested directly or indirectly, in any manner whatsoever in or in the performance of the resultant contract or in the supplies, work or business to which it relates or in any portion of the profits thereof; ii) has been or will be offered or given any tangible consideration in connection with this resultant contract; and/or iii) has used confidential information that he/she acquired by reason of his/her public position, and which is not available to the public, in conjunction with the resultant contract.
- B. Offeror certifies that it has not, nor anyone on its behalf, directly or indirectly offered, promised, nor actually given any money, honorarium, loan, gift, favor, service, or business or professional opportunity to any appointed or elected official, member or other officer or employee of the Commonwealth of Virginia, or of the TDCHR, or their affiliates and subsidiaries, in conjunction with the preparation of the offer.
- C. Offeror certifies that no person associated in any way with the resultant contract participated in the underlying preparation of the solicitation by TDCHR.
- D. Offeror certifies that it does not employ any current TDCHR employees or former TDCHR employees (who have been separated from TDCHR for less than one calendar year) that have or had any responsibility for procurement transactions at TDCHR.
- E. Offeror certifies that neither Offeror nor, to the best of the Offeror's knowledge after diligent inquiry, any director, officer, owner, or employee of the Offeror has any interest, nor shall they acquire any interest, directly or indirectly, which would conflict in any manner or degree with the faithful performance of the resultant contract hereunder.
- F. In the event the Offeror has no prior knowledge of a conflict of interest as set forth in "A" and "E" above and hereafter acquires information which indicates that there may be an actual or apparent violation of any of the above, the Offeror shall promptly bring such information to the attention of the Commission's Director of Procurement. Offeror shall thereafter cooperate with the Commission's review and investigation of such information and comply with any instruction it receives from the Director of Procurement in regard to remedying the situation.



## **PART 2 - CERTIFICATIONS**

The Offeror, \_\_\_\_\_, hereby certifies that, to the best of its knowledge and belief, there are no present or currently planned interests (financial, contractual, organizational, or otherwise) relating to the work to be performed under the contract resulting from Solicitation No. \_\_\_\_\_ that would create any actual or potential conflict of interest (or apparent conflicts of interest) (including conflicts of interest for immediate family members: spouses, parents, children) that would impinge on its ability to render impartial, technically sound, and objective assistance or advice or result in it being given an unfair competitive advantage. In this clause, the term “potential conflict” means reasonably foreseeable conflict of interest. The Offeror further certifies that it has, and will, continue to exercise due diligence in identifying and removing or mitigating, to the Commission's satisfaction, such conflict of interest (or apparent conflict of interest).

The Offeror further agrees to insert in any subcontract or consultant agreement hereunder, provisions that conform substantially to the language of this clause, including specific mention of potential remedies and this paragraph.

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

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

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

## **PART 2 - CERTIFICATIONS**

### **2. Covenant Against Gratuities**

By submission of this offer, the Offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

Neither it nor any of its employees, representatives, or agents have offered or given gratuities (in the form of entertainment, gifts or otherwise) to any Commissioner, officer, or employee of the Commission with the view toward securing favorable treatment in the awarding, amending, or the making of any determination with respect to the performing of the contract.

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

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

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

## **PART 2 - CERTIFICATIONS**

### **3. Contingent Fees**

By submission of this offer, the Offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

- A. It ☐ has, ☐ has not, employed or retained any company or persons (other than a full-time, bona fide employee working solely for the Offeror) to solicit or secure this contract, and
- B. It ☐ has, ☐ has not, paid or agreed to pay any company or person (other than a fulltime bona fide employee working solely for the Offeror) any fee, commission, percentage, or brokerage fee contingent upon or resulting from the award of this contract.

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

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

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

## **PART 2 - CERTIFICATIONS**

### **4. Certificate of Current Cost or Pricing Data**

In accordance with 48 CFR Part 15, Subpart 15.4, and by submission of a bid or offer, the Offeror certifies that throughout performance of the resulting contract and any modifications and extensions, all costs and pricing are in accordance with federal cost principles as shown in the Federal Acquisition Regulations (FAR) 15.403-4 and 15.403-5, and have been certified, or is required to be certified, in accordance with 15.406-2. This certificate states that, to the best of the Offeror's knowledge and belief, the cost or pricing data is accurate, complete, and current as of a date certain before contract award.

If applicable, exceptions to certified cost or pricing data are included in FAR 15.403-1(b) and should be indicated below:

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

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

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

## **PART 2 - CERTIFICATIONS**

### **5. Certification of Independent Price Determination**

A. By submission of its offer, the Offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

- i. The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Offeror or with any other competitor;
- ii. Unless otherwise required by law, the prices that are quoted in this offer have not been knowingly disclosed by the Offeror and will not be knowingly disclosed by the Offeror prior to award (in the case of a negotiated procurement), directly or indirectly, to any other Offeror or to any competitor; and
- iii. No attempt has been made or will be made by the Offeror to induce any other person or firm to submit or not to submit an offer for the purpose of restricting competition.

B. Each person signing this offer certifies that:

- i. He or she is the person in the Offeror's organization responsible for the decision regarding the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to A i through iii above; or
- ii. He or she is not the person in the Offeror's organization responsible for the decision regarding the prices being offered herein, but that he/she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated; and will not participate, in any action contrary to A i through iii above, or and as their agent he or she does hereby so certify.

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

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

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

## **PART 2 - CERTIFICATIONS**

### **6. Nondiscrimination**

By submission of this offer, the Offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, in connection with this procurement, that it will not discriminate on the basis of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by federal or state law relating to discrimination in employment, in the performance of this contract. The Offeror is required to insert the substance of this clause in all subcontracts and purchase orders. The Contractor's failure to carry out these requirements is a material breach of this contract that may result in the termination of this contract or other such remedy as HRT deems appropriate. The Offeror further agrees by submitting this offer that it will include this certification, without modification, in all subcontracts and purchase orders.

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

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

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

## **PART 2 - CERTIFICATIONS**

### **7. Certification of Non-Segregated Facilities**

This certification is applicable to contracts over \$10,000.

- A. By submission of this offer, the Offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:
- i. It does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control, where segregated facilities are maintained.
  - ii. The Offeror agrees that a breach of this certification is a violation of the Equal Opportunity Clause in the contract.
  - iii. As used in this certification, the term “segregated facilities” means any waiting rooms, work sites, restrooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin, because of habit, local custom, or otherwise.
- B. It further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will:
- i. Obtain identical certifications from proposed subcontractors prior to the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause;
  - ii. Retain such certifications in its files; and
  - iii. Forward the following notice to such subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

#### **Notice to Prospective Subcontractors of Requirements for Certifications of Non-Segregated Facilities**

A Certification of Non-Segregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for such subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

## **PART 2 - CERTIFICATIONS**

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

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

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



## **PART 2 - CERTIFICATIONS**

### **8. Clean Air Act and Federal Water Pollution Control Act Certification**

This certification is applicable if the offer exceeds \$150,000, or the Contracting Officer believes that orders under an indefinite type contract in any year will exceed \$150,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. § 7401-7671q) or the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387), is listed by the U.S. Environmental Protection Agency (EPA) as a violating facility, and the acquisition is not otherwise exempt:

- A. Any facility to be utilized in the performance of this contract is ☐, is not ☐, listed on the EPA's List of Violating Facilities;
- B. Offeror will immediately notify the Contracting Officer, prior to award, of the receipt of any communications from the Administrator, or a designee of the EPA, indicating that any facility which it proposed to use for the performance of the contract is under consideration to be listed on the EPA's List of Violating Facilities; and
- C. Offeror will include a certification substantially the same as this certification, including this paragraph, in every non-exempt subcontract.

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

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

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

## **PART 2 - CERTIFICATIONS**

### **9. Certification Regarding Federal Tax Liability and Recent Felony Convictions**

- A. By submission of this offer, the Offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that it:
- i. Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
  - ii. Was not convicted of a felony criminal violation under any Federal law within the preceding twenty-four (24) months.
- B. It further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will:
- i. Obtain identical certifications from proposed subcontractors before the award of subcontracts at any value;
  - ii. Retain such certifications in its files; and
  - iii. Flow this requirement down to subcontractors at all lower tiers, without regard to the value of any subcontract.

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

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

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

## **PART 2 - CERTIFICATIONS**

### **10. Safety-Sensitive Certification**

- A. By submission of this offer, the Offeror represents and certifies that it will comply with the FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655, and applicable provisions of the U.S. DOT regulations, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," 49 CFR Part 40.
- B. Offeror agrees that its employees and agents, including but not limited to safety-sensitive subcontractors, will be enrolled in a drug and alcohol testing program that meets the requirements indicated in A above.
- C. Offeror understands that the Commission will perform oversight during the contract's period of performance to ensure that the successful Offeror complies with the DOT/FTA regulations.
- D. Failure to comply with this certification may result in the Commission issuing sanctions and pursuing available contractual remedies.

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

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

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

## **PART 2 - CERTIFICATIONS**

### **11. Debarment, Suspension, Ineligibility, and Voluntary Exclusion**

*Appendix II to 2 CFR Part 200: Debarment and Suspension (Executive Orders 12549 and 12689)*  
- A contract award (see 2 CFR § 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR § 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

- A. System for Award Management Unique Entity ID (required): \_\_\_\_\_
- B. Primary Covered Transactions. This certification applies to the offer submitted in response to this solicitation and will be a continuing requirement throughout the term of any resultant Contract.
- i. In accordance with the provisions of 2 CFR Part 1200 and 2 CFR Part 180, Subpart C, the Offeror certifies to the best of its knowledge and belief that it and its principals:
- a) are not currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or state department or agency;
  - b) have not, within a three (3) year period preceding this offer, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction; violation of Federal or state antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c) are not currently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state, or local) with commission of any of the offenses enumerated in paragraph (i)(b) of this certification; and have not, within a three (3) year period preceding this offer, had one (1) or more public transactions (Federal, state, or local) terminated for cause or default.
- ii. Where the Offeror is unable to certify to any of the statements in this certification, the Offeror shall attach an explanation to this offer.

## **PART 2 - CERTIFICATIONS**

- C. Lower Tier Covered Transactions. This certification applies to a subcontract at any tier expected to equal or exceed \$25,000 and will be a continuing requirement throughout the term of this Contract.
- i. The prospective lower tier subcontractor certifies, by submission of this offer, that neither it nor its principals is currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal or state department or agency.
  - ii. Where the prospective lower tier subcontractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.
- D. The Certification required above, shall be included in all applicable subcontracts and the Contractor shall keep a copy on file. The Contractor shall be required to furnish copies of certifications to the Contracting Officer upon his or her request.

*The certification in this clause is a material representation of fact relied upon by the Commission. If it is later determined that the Bidder or Proposer knowingly rendered an erroneous certification, in addition to remedies available to the Commission, 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 2 CFR Part 180, Subpart C, as supplemented by 2 CFR Part 1200, 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.*

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

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

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

## **PART 2 - CERTIFICATIONS**

### **12. Certification Regarding Lobbying**

To be submitted with each offer exceeding \$100,000 (49 CFR Part 20).

- A. By submission of this offer, the Offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that to the best of his or her knowledge or belief:
- i. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any persons for influencing or attempting to influence an officer or employee of any agency or Federal department, 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.
  - ii. 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 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 "Governmentwide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/1/1996).
  - iii. 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.
- B. This certification is a material representation of fact upon which reliance is 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. 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.
- C. The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C.A. § 3801, et. seq. applies to this certification and disclosure, if any.

## **PART 2 - CERTIFICATIONS**

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

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

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

## **PART 2 - CERTIFICATIONS**

### **13. Registration and Use of Federal Employment Eligibility Verification Program Requirement**

To be submitted with each offer exceeding \$50,000 (VPPA § 2.2-4308.2).

- A. For purposes of this section, “E-Verify program” means the electronic verification of work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P. L. 104-208), Division C, Title IV, § 403(a), as amended, operated by the U.S. Department of Homeland Security, or a successor work authorization program designated by the U.S. Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603).
- B. Any Contractor with more than an average of fifty (50) employees for the previous twelve (12) months entering into a contract in excess of \$50,000 to perform work or provide services pursuant to such contract shall register and participate in the E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to such public contract.
- C. Any such Contractor who fails to comply with the provisions of subsection B shall be debarred from contracting with any agency of the Commonwealth for a period up to one (1) year. Such debarment shall cease upon the Contractor’s registration and participation in the E-Verify program.

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

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

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



## **PART 2 - CERTIFICATIONS**

### **14. Certification of Compliance with Immigration Laws and Regulations**

By submission of this offer, the Offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, it will comply with all federal immigration laws and regulations. These laws include the Federal Immigration Reform and Control Act, which makes it unlawful for a person or other entity to hire, recruit, or refer for a fee for employment in the United States, an alien knowing the alien is unauthorized; Section 40.1-11.1 of the Code of Virginia, which makes it unlawful for any employer to knowingly employ an alien who cannot provide documents indicating that he or she is legally eligible for employment in the United States; and Section 2.2-4311.1 of the Code of Virginia, which requires every written contract to contain a provision that the contractor does not, and shall not, during the performance of the contract for goods and services in the Commonwealth of Virginia, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act. The state law, in particular, places an affirmative duty on employers to ensure that aliens have proof of eligibility for employment.

**Are all employees who work in the United States eligible for employment in the United States?**      ☐ Yes      ☐ No

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

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

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

## **PART 2 - CERTIFICATIONS**

### **15. Non-Collusion Certification**

In the preparation and submission of this offer on behalf of \_\_\_\_\_ (name of Offeror), it did not either directly or indirectly enter into any combination or arrangement with any person, firm or corporation, or enter into any agreement, participate in any collusion, or otherwise take any action in the restraint of free competition in violation of the Sherman Anti-Trust Act, 15 USCS Sections 1 et seq., or the Conspiracy to Rig Bids to Government Statutes, Virginia Code Sections 59.1-69.6 through 59.1-69.9. The undersigned Offeror hereby certifies that the agreement, or any claims resulting there from, is not the result of, or affected by, any act of collusion with, or any act of, another person or persons, firm or corporation engaged in the same line of business or commerce; and, that no person acting for, or employed by the Transportation District Commission of Hampton Roads (HRT) has an interest in, or is concerned with, this proposal or bid; and, that no person or persons, firm or corporation, other than the undersigned, have or are interested in this proposal.

*“...or otherwise take any action in the restraint of free competition in violation of the Sherman Antitrust Act, 15 USCS Sections 1 et seq., the Virginia Antitrust Act, Virginia Code Sections 59.1-9.1 through 59.1-9.19 or the Conspiracy to Rig Bids to Government Statutes, Virginia Code Sections 59.1-69.6 through 59.1-69.9.”*

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

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

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

## **PART 2 - CERTIFICATIONS**

### **16. Ethics in Public Contracting**

The provisions contained in Sections § 2.2-4367 through § 2.2-4377, Code of Virginia, as amended, shall be applicable to all contracts solicited or entered into by HRT. By submitting their offer, all Offerors certify that their bids/proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Bidder, Offeror, supplier, manufacturer or subcontractor in connection with their bid/proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

The Offeror certifies that to the best of its knowledge, no employee of HRT, nor any member thereof, nor any public agency or official impacted by the solicitation or resulting contract has any pecuniary interest in the business of the Offeror, and that no person associated with the Offeror has any interest that would conflict in any manner with the performance of the contract resulting from this solicitation.

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

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

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

## **PART 2 - CERTIFICATIONS**

### **17. Buy America Act Certification**

The Buy America regulations require that all manufactured products used in FTA-funded projects be produced in the United States. A manufactured product is considered domestic if all of the manufacturing processes for the product take place in the United States and all of the components of the product are of U.S. origin as set forth in 49 CFR § 661.5(d)(1). A component of a manufactured product "is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents." 49 CFR § 661.5(d)(2).

- A. By submission of its offer, the Offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement, it will comply with 49 U.S.C. § 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by the FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. § 5323(j)(2)(C) and 49 CFR § 661.11.
- B. By submission of its offer, and except as the Federal Government determines otherwise in writing, the Offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement, it will comply with the Build America, Buy America Act, Public Law 117-58, div. G, title IX, sections 70911-70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and the FTA, which provide that Federal funds may not be obligated for a project unless all construction materials used in the FTA funded project are produced in the United States. Construction materials include an article, material, or supply that is, or consists primarily of:
  - non-ferrous metals;
  - plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
  - glass (including optic glass);
  - lumber; or
  - drywall.

The Offeror must submit the appropriate Buy America certification to reflect that it will comply with such applicable law, regulations, guidance, and contractual obligation. Offers that are not accompanied by a completed Buy America certification may be rejected as nonresponsive.

In accordance with 49 CFR § 661.6, for the procurement of steel, iron, or manufactured products, and the Build America, Buy America Act, Public Law 117-58, div. G, title IX, sections 70911-70927 (2021), for the procurement of construction materials, use the certifications below.

## **PART 2 - CERTIFICATIONS**

### **DIRECTIONS**

1. If applicable to the solicitation, choose ONE (1) certification below. DO NOT SIGN THE CERTIFICATION THAT IS NOT APPLICABLE TO THE SOLICITATION.
2. Failure of the Offeror to furnish this executed document with its proposal/bid may be construed by HRT as a negative response and the offer will not be considered.
3. Signing both certifications and/or signing both compliant and non-compliant certifications are grounds for deeming the proposal/bid as non-responsive.
4. If there are any questions regarding these certifications, contact the Contracting Officer prior to proposal/bid submission.

## **PART 2 - CERTIFICATIONS**

### **BUY AMERICA CERTIFICATE FOR PROCUREMENTS OF STEEL, IRON, MANUFACTURED PRODUCTS, AND CONSTRUCTION MATERIALS**

This procurement is subject to the FTA's Buy America requirements of 49 U.S.C. § 5323(j)(1) and the applicable regulations in 49 CFR § 661.5, and the Build America, Buy America Act, Public Law 117-58, div. G, title IX, sections 70911-70927 (2021). Offeror must complete and submit the appropriate certification as set forth below.

49 U.S.C § 5323(j)(1) permits FTA participation on this contract only if all iron, steel, and manufactured products used in the contract are produced in the United States. The Build America, Buy America Act, Public Law 117-58, div. G, title IX, section 70911-70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and the FTA, permits participation in this contract only if all construction materials used in the FTA funded project are produced in the United States.

A waiver from the Buy America Provision may be sought by HRT if grounds for the waiver exist. In such event, the Offeror shall submit pertinent data as required by HRT.

#### **Certificate of Compliance with Buy America Requirements**

The Offeror hereby certifies that it will comply with the requirements of 49 U.S.C. § 5323(j)(1) and the applicable regulations in 49 CFR part 661, and the Build America, Buy America Act, Public Law 117-58, div. G, title IX, sections 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and the Federal Transit Administration.

Name: \_\_\_\_\_ Title \_\_\_\_\_  
Company \_\_\_\_\_ Date: \_\_\_\_\_  
Signature: \_\_\_\_\_

#### **Certificate of Non-Compliance with Buy America Requirements**

The Offeror hereby certifies that it cannot comply with the requirements of the Build America, Buy America Act, Public Law 117-58, div. G, title IX, sections 70911 – 70927 (2021), or 49 U.S.C. § 5323(j)(1), but it may qualify for an exception to the requirements pursuant to 49 U.S.C. § 5323(j)(2), as amended, applicable regulations in 49 CFR § 661.7, and any additional requirements of the Build America, Buy America Act.

Name: \_\_\_\_\_ Title \_\_\_\_\_  
Company \_\_\_\_\_ Date: \_\_\_\_\_  
Signature: \_\_\_\_\_

## **PART 2 - CERTIFICATIONS**

*(Do not complete the remainder of the Certifications unless your proposal includes rolling stock as defined in 49 CFR Part 661)*

### **BUY AMERICA CERTIFICATE FOR PROCUREMENTS OVER \$150,000 FOR BUSES, OTHER ROLLING STOCK, AND ASSOCIATED EQUIPMENT**

**(as required by 49 CFR § 661.13(b))**

This procurement is subject to the FTA's Buy America requirements in 49 CFR § 661.12 for the procurement of rolling stock (including train control, communication, and traction power equipment). Offeror must complete and submit the appropriate certification as set forth below.

A waiver from the Buy America Provision may be sought by HRT if grounds for the waiver exist. In such event, the Offeror shall submit pertinent data as required by HRT.

#### **Certificate of Compliance with Buy America Requirements**

The Offeror hereby certifies that it will comply with the requirements of 49 U.S.C. § 5323(j), and the applicable regulations in 49 CFR § 661.11.

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Company: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature: \_\_\_\_\_

#### **Certificate of Non-Compliance with Buy America Requirements**

The Offeror hereby certifies that it cannot comply with the requirements of the 49 U.S.C. § 5323(j), but it may qualify for an exception to the requirements consistent with 49 U.S.C. § 5323(j)(2)(C), and the applicable regulations in 49 CFR § 661.7.

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Company: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature: \_\_\_\_\_

## **PART 2 - CERTIFICATIONS**

### **Transit Vehicle Manufacturer Disadvantaged Business Enterprise Certification**

The Offeror, a Transit Vehicle Manufacturer, hereby certifies that it has complied with the requirements of 49 CFR § 26.49 by submitting an annual DBE goal to the FTA. The goal has either been **approved** or **is pending approval** by the FTA.

The Offeror certifies or affirms the truthfulness and accuracy of the contents of the statement submitted on or with this certification.

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

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

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

### **Federal Motor Vehicle Safety Standards Certification**

The Offeror, if awarded the contract, shall submit (1) the manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS; or (2) the manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

The Offeror certifies or affirms the truthfulness and accuracy of the contents of the statement submitted on or with this certification.

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

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

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