



Intended Single Source Purchase: Purchase of Clever Devices Renewal

Date Posted: 09/23/2024 to 10/15/2024

Project #: SS240594KCW

Contact: Kevin Waker
Lee County Procurement Management
2115 Second St., 1st Floor
Fort Myers, FL 33901
239-533-8860

The description of services intended for purchase from a single source is posted in accordance with section 3.9, Procurement Ordinance 23-21 and will be posted for a minimum of 15 business days.

Commodity or Service Required:
Purchase of Clever Devices Renewal

Description:
Lee County Transit is seeking to execute a single source for the renewal of a one-year software maintenance and hardware warranty agreement by Clever Devices Ltd. This software and hardware are used for vehicle tracking, performance analytics, and passenger and operator communications.

Intended Single/Sole Source:
Clever Devices Ltd.

Justification for Single/Sole Source Acquisition:
Clever Devices Ltd. is the sole manufacturer of the hardware and software required for the Intelligent Transportation System to function and the only company that can provide ongoing maintenance and warranty work.

Recommended Procurement Approach:
For the reason(s) stated above, Lee County Procurement Management intends to utilize the Single Source Procurement method to purchase from Clever Devices Ltd. for supplying the above.

Respond to:
If your firm feels they have the ability to supply the above, please contact Kevin Walker, Lee County Procurement Management at KWalker2@leegov.com for review.

REQUIRED FEDERAL CLAUSES
SMALL PURCHASES – OPERATIONS/MANAGEMENT
(more than \$100,000 ~ Lee County Ordinance 22-06)
(no more than \$250,000 ~ FTA 48 CFR part 2, subpart 2.1/OMB (M-18-18))

This procurement is being funded, in whole or in part, with federal funds through Federal Transit Administration (FTA). As such, LeeTran and the third-party vendor(s) qualified to perform services as stated for this procurement, must comply with all applicable Federal requirements. The following FTA mandated provisions are included in this procurement and can be found in the FTA Circular 4220.1F Appendix D and in the latest edition of FTA's Master Agreement.

1. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

- a. Vendor 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 of the Federal Government, the Federal Government is not a party to the Contract and shall not be subject to any obligations or liabilities to the Vendor or any other party pertaining to any matter resulting from the underlying Contract.
- b. The Vendor 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 sub who will be subject to its provisions.

2. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

- a. The Vendor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. Sec. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31 apply to its actions pertaining to the Contract. Upon execution of the underlying Contract, the Vendor certifies or affirms the truthfulness and accuracy of any statement it makes, it may make, or causes to be made, pertaining to the underlying Contract or the FTA assisted project for which the Contract Work is being performed. In addition to other penalties that may be applicable, the Vendor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the 3 Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Vendor to the extent the Federal Government deems appropriate.
- b. The Vendor 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 Vendor, to the extent the Federal Government deems appropriate.
- c. The Vendor agrees to include the above two clauses in each subcontract financed in which 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 sub who will be subject to the provisions.

REQUIRED FEDERAL CLAUSES

SMALL PURCHASES – OPERATIONS/MANAGEMENT

(more than \$100,000 ~ Lee County Ordinance 22-06)

(no more than \$250,000 ~ FTA 48 CFR part 2, subpart 2.1/OMB (M-18-18))

3. ACCESS TO RECORDS AND REPORTS

The Vendor shall maintain books, records, documents, and other evidence directly pertinent to performance of the Work under the Contract in accordance with generally accepted accounting principles and practices consistently applied and Federal Acquisition Regulation Parts 30 and 31 (48 C.F.R. 30 and 31). The Vendor shall also maintain the financial information and data used by the Vendor in the preparation or support of the cost submissions required for the Contract, or any Change Order or claim, and a copy of the cost summary submitted to LEE COUNTY BOARD OF COUNTY COMMISSIONERS (LCBOCC). LCBOCC, the U.S. Government, and the State Government or their authorized representatives shall have access, at all times during normal business hours, to such books, records, documents, and other evidence for the purpose of inspection, audit, and copying. The Vendor will provide proper facilities for such access and inspection. The rights granted LCBOCC, and the government under this provision shall remain in full force and effect for the longer of: (a) three (3) years after termination of the Contract for whatever reason, or (b) the date on which all litigation, appeals, claims or exceptions related to any litigation or settlement of claims arising from the performance of the Contract are resolved or otherwise terminated. The foregoing record keeping obligations shall extend to any sub performing Work valued in excess of ten thousand dollars (\$10,000.00). In addition, with respect to major capital projects, Vendor agrees to provide access to Vendor'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.

4. FEDERAL CHANGES

Vendor shall all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the current FTA Master Agreement (which may be obtained at: <http://www.fta.dot.gov/grants/15072.html>) between Lee County Board of County Commissioners and FTA, as they may be amended or promulgated from time to time during the term of the Contract. Vendor's failure to so comply shall constitute a material breach of the Contract.

5. CIVIL RIGHTS LAWS AND REGULATIONS

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 Vendor 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 Vendor 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:

REQUIRED FEDERAL CLAUSES

SMALL PURCHASES – OPERATIONS/MANAGEMENT

(more than \$100,000 ~ Lee County Ordinance 22-06)

(no more than \$250,000 ~ FTA 48 CFR part 2, subpart 2.1/OMB (M-18-18))

- 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 Vendor 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 Vendor 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 Vendor agrees to comply with any implementing requirements FTA may issue.
- 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 Vendor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Vendor agrees to comply with any implementing requirements FTA may issue.
- Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Vendor 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 Vendor agrees to comply with any implementing requirements FTA may issue.
- The Vendor 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.

6. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

- a. 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

REQUIRED FEDERAL CLAUSES

SMALL PURCHASES – OPERATIONS/MANAGEMENT

(more than \$100,000 ~ Lee County Ordinance 22-06)

(no more than \$250,000 ~ FTA 48 CFR part 2, subpart 2.1/OMB (M-18-18))

Business Enterprises (DBE) is 10%. LEETRAN's overall goal for DBE participation is 4%. A separate contract goal has not been established for this procurement.

- b. The Vendor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Vendor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Vendor 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 LEETRAN deems appropriate. Each subcontract the Vendor signs with a sub must include the assurance in this paragraph (see 49 CFR 26.13(b)).

The successful Vendor will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

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

7. **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 or subsequent revisions, 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 Vendor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

8. **ENERGY CONSERVATION**

Vendor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the Florida energy conservation plan issued in compliance with the Energy Policy and Conservation Act, as amended, 42 USC § 6321 et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with FTA funds required under FTA regulations, "Requirements for Energy Assessment," 49 CFR part 622, subpart C.

REQUIRED FEDERAL CLAUSES

SMALL PURCHASES – OPERATIONS/MANAGEMENT

(more than \$100,000 ~ Lee County Ordinance 22-06)

(no more than \$250,000 ~ FTA 48 CFR part 2, subpart 2.1/OMB (M-18-18))

9. **TERMINATION**

- a. **Termination for Convenience.** LEETRAN may terminate the Contract, in whole or in part, at any time and for any reason by written notice to the Vendor when it is in the best interest of LEETRAN. The Vendor shall be paid its costs, including Contract close-out costs, and profit on Work performed up to the time of termination. The Vendor shall promptly submit its termination claim to LEETRAN to be paid to the Vendor. If the Vendor has any property in its possession belonging to LEETRAN, the Vendor will account for the same, and dispose of it in the manner LEETRAN directs.
- b. **Termination for Default.** If the Vendor fails to make delivery of the goods or to perform the services within the time specified herein or any extension thereof; or if the Vendor fails to perform any of the other provisions of the Contract, or so fails to make progress as to endanger performance of the Contract in accordance with its terms and, in either of these two circumstances, does not cure such failure within a period of ten (10) days after receiving such notice from LEETRAN, thereafter, LEETRAN may terminate the Contract for default and have the Work completed and the Vendor shall be liable for any resulting cost to LEETRAN. In the event of termination for default, the Vendor will only be paid the Contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the Contract. If, after termination for failure to fulfill Contract obligations, it is determined that the Vendor 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 LEETRAN.
- c. **Termination Due to Insufficient Funds.** If at any time during the term of the Contract the LEETRAN Governing Board decides that LEETRAN has insufficient funds with which to carry out its performance and obligations under the Contract, then LEETRAN may terminate the Contract by delivering a notice of termination to the Vendor. The effective date of any termination shall be the date which is thirty (30) days following the delivery of the notice of termination or such later date, if any, specified in the notice of termination. The Vendor shall be paid its costs, including Contract closeout costs, and profit on Work performed up to the time of termination. The Vendor shall promptly submit its claim for final payment to LEETRAN.
- d. **Termination Due to Failure to Receive a Grant or other Funding Device.** If at any time during the term of the Contract LEETRAN ceases to receive a grant or other funding device from a third party with which it intended to pay for the goods or services Contracted for, then, unless otherwise directed by the LEETRAN Governing Board, LEETRAN may terminate the Contract by delivering a notice of termination to the Vendor. The effective date of any termination shall be the date which is thirty (30) days following the delivery of the notice of termination or such later date, if any, specified in the notice of termination. The Vendor shall be paid its costs, including Contract closeout costs, and profit on Work performed up to the time of termination. The Vendor shall promptly submit its final payment to LEETRAN.

REQUIRED FEDERAL CLAUSES

SMALL PURCHASES – OPERATIONS/MANAGEMENT

(more than \$100,000 ~ Lee County Ordinance 22-06)

(no more than \$250,000 ~ FTA 48 CFR part 2, subpart 2.1/OMB (M-18-18))

- e. **Damages upon Termination.** Any damages to be assessed to the Vendor because of a default termination or any claim by Vendor for costs resulting from a termination for convenience by LEETRAN, a termination due to insufficient funds by LEETRAN, or a termination due to a failure to receive a grant or other funding device by LEETRAN will be computed and allowable in accordance with federal regulations in effect at the time of termination.

10. GOVERNMENT WIDE DEBARMENT AND SUSPENSION

The Contract is a "covered transaction" for purposes of 49 C.F.R. Part 29. As such, Vendor is required to verify that none of the Vendor, its principals, as defined at 49 C.F.R. 29.995, or affiliates, as defined at 49 C.F.R. 29.905, are excluded or disqualified as defined at 49 C.F.R. 29.940 and 29.945. Vendor is required to comply with 49 C.F.R. 29, Subpart C and must include the requirement to comply with 49 C.F.R. 29, Subpart C in any lower tier covered transaction it enters. Vendor certifies as follows:

- a. The certification in this clause is a material representation of fact relied upon by LEETRAN.
- b. If it is later determined that the Vendor knowingly rendered an erroneous certification, in addition to remedies available to LEETRAN, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- c. The Vendor agrees to comply with the requirements of 49 C.F.R. 29, Subpart C while its offer is valid and throughout the period of any contract that may arise from its offer.
- d. The Vendor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

11. RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION

Disputes – Disputes arising in the Performance of the Contract which are not resolved by agreement of the parties shall be decided in writing by the Procurement Director of LCBOCC. 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 furnished a written appeal to the Procurement Director. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence of its position. The decision of the Procurement Director of LCBOCC shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by LCBOCC, Contractor shall continue performance under the 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

REQUIRED FEDERAL CLAUSES

SMALL PURCHASES – OPERATIONS/MANAGEMENT

(more than \$100,000 ~ Lee County Ordinance 22-06)

(no more than \$250,000 ~ FTA 48 CFR part 2, subpart 2.1/OMB (M-18-18))

writing to such other party within a reasonable time after the first observance of such injury or damage.

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

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available hereunder 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 LCBOCC 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 hereunder, except as may be specifically agreed in writing.

12. Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by the U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. part 20 to the extent consistent with 31 U.S.C. §1352, as amended, and other applicable federal laws, regulations, and guidance prohibiting the use of 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, as amended. 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 LCBOCC.

13. Clean Air

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 LCBOCC and understands and agrees that LCBOCC will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

14. Clean Water

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 LCBOCC and understands and agrees that

REQUIRED FEDERAL CLAUSES

SMALL PURCHASES – OPERATIONS/MANAGEMENT

(more than \$100,000 ~ Lee County Ordinance 22-06)

(no more than \$250,000 ~ FTA 48 CFR part 2, subpart 2.1/OMB (M-18-18))

LCBOCC will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

15. Contract Work Hours and Safety Standards

The following provisions shall apply with respect to all U.S. federal government financed contracts and subcontracts more than \$100,000, involving employment of laborers or mechanics, including watchmen and guards, provided, however, that these provisions shall not apply to contracts for transportation by land, air, or water, or for the transmission of intelligence, or for the purchase of supplies or materials or articles ordinarily available in the open market.

- a. **Overtime requirements** - No Contractor or subcontractor contracting for any part of the Contract Work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such Work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b. **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (a) of this section the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- c. **Withholding for unpaid wages and liquidated damages** - LCBOCC shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of Work performed by the Contractor or subcontractor under any such Contract or any other Federal contract with the same prime Contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- d. **Subcontracts** - The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (3) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

REQUIRED FEDERAL CLAUSES
SMALL PURCHASES – OPERATIONS/MANAGEMENT
(more than \$100,000 ~ Lee County Ordinance 22-06)
(no more than \$250,000 ~ FTA 48 CFR part 2, subpart 2.1/OMB (M-18-18))

16. CONFORMANCE WITH INTELLIGENT TRANSPORTATION SYSTEM (ITS) NATIONAL ARCHITECTURE

For all respect to all Contracts involving the provision of Intelligent Transportation Systems ITS property and services the Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the National ITS Architecture and Standards to the extend required by 23 USC Section 517 (d) and 23 CFR Part 655 and 940.

17. FLY AMERICA

- a. Definitions. As used in this clause-- “International air transportation” means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States. “United States” means the 50 States, the District of Columbia, and outlying areas. “U.S.-flag air carrier” means an air carrier holding a certificate under 49 U.S.C. Chapter 411.
- b. When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires Vendors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
- c. If available, the Vendor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- d. If the Vendor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Vendor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

18. RECYCLED PRODUCTS

With respect to contracts for items designated by the Environmental Protection Agency, when LEETRAN procures at least Ten Thousand Dollars (\$10,000) of such materials per year,

REQUIRED FEDERAL CLAUSES

SMALL PURCHASES – OPERATIONS/MANAGEMENT

(more than \$100,000 ~ Lee County Ordinance 22-06)

(no more than \$250,000 ~ FTA 48 CFR part 2, subpart 2.1/OMB (M-18-18))

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

19. AMERICANS WITH DISABILITIES ACT (ADA)

All design and construction must be accessible to individuals with disabilities pursuant to Titles II and III of the Americans with Disabilities Act.

20. TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS

With respect to Contracts for "transit operations" as classified by the FTA, and performed by employees of a Contractor recognized by FTA to be a transit operator, the Contractor agrees to the comply with applicable transit employee protective requirements as follows:

- a. **General Transit Employee Protective Requirements.** To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations Work on the underlying Contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under the Contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. Department of Labor guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. Department of Labor to FTA applicable to LEETRAN's project from which Federal assistance is provided to support Work on the underlying Contract. The Contractor agrees to carry out that Work in compliance with the conditions stated in that U.S. Department of Labor letter. The requirements of this subsection (a), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for non-urbanized areas authorized by 49 U.S.C. § 531. Alternate provisions for those projects are set forth in subsections (b) and (c) of this Section.
- b. **Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities.** If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for LEETRAN, the Contractor agrees to carry out the Work in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. Department of Labor guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. Department of Labor's letter of certification to FTA, the date of which is set forth in the Grant Agreement or Cooperative Agreement with

REQUIRED FEDERAL CLAUSES

SMALL PURCHASES – OPERATIONS/MANAGEMENT

(more than \$100,000 ~ Lee County Ordinance 22-06)

(no more than \$250,000 ~ FTA 48 CFR part 2, subpart 2.1/OMB (M-18-18))

LEETRAN. The Contractor agrees to perform transit operations in connection with the underlying Contract in compliance with the conditions stated in that U.S. Department of Labor letter. *Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Non-urbanized 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 Non-urbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. Department of Labor or any revision thereto.

- c. **Requirements Apply to Subcontracts.** The Contractor agrees to include any applicable requirements in each sub-contract involving transit operations financed in whole or in part with assistance provided by FTA.

21. CHARTER SERVICE OPERATIONS. The Contractor agrees to comply with 49 U.S.C. 5323(d) and 49 C.F.R. Part 604, which provides that recipients and sub-recipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 C.F.R. 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation. Contractor agrees to include provisions to this effect in to include these requirements in all subcontracts issued pursuant to the Contract when the subcontract may involve charter service operations.

22. DRUG AND ALCOHOL TESTING. The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. Parts 40 and 655, produce any documentation necessary to establish its compliance with Parts 40 and 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Florida, or LEETRAN, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. Parts 40 and 655 and review the testing process. The Contractor agrees further to certify annually its compliance with Parts 40 and 655 before December 31st of each year and to submit the Management Information System (MIS) reports before December 31st of each year to LEETRAN Director, 6035 Landing View Road, Fort Myers, FL 33901. 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.

23. SCHOOL BUS OPERATIONS. Contractor agrees to comply with 49 U.S.C. 5323(f) and 49 C.F.R. Part 605, which provide those recipients and sub-recipient 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,

REQUIRED FEDERAL CLAUSES
SMALL PURCHASES – OPERATIONS/MANAGEMENT
(more than \$100,000 ~ Lee County Ordinance 22-06)
(no more than \$250,000 ~ FTA 48 CFR part 2, subpart 2.1/OMB (M-18-18))

Contractor agrees not to use federally funded equipment, vehicles, or facilities. Contractor agrees to include provisions to this effect in to include these requirements in all subcontracts issued pursuant to the Contract when the subcontract may involve school bus operations.

Please sign and date verifying that you acknowledge and accept the above Federal Transit Administration (FTA) provisions:

Date: _____

Signature

Name/Title