COUNTY COMMISSION

BALDWIN COUNTY
312 COURTHOUSE SQUARE, SUITE 12
BAY MINETTE, ALABAMA 36507
(251) 937-0264
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www.baldwincountyal.gov

MEMBERS
DIST 1 FRANK BURT, JR.
2 ROBERT E. (BOB) JAMES
3 J. TUCKER DORSEY
4 CHARLES F. GRUBER

January 21, 2014

Mr. Edmond G. Eslava, III
The Appraisal & Consultant Group
9082 Independence Avenue
Daphne, Alabama 36526

RE: Right-of-Way Acquisition Appraisal Contract

Dear Mr. Eslava:

The Baldwin County Commission, during its regularly scheduled meeting held on January 21, 2014, approved the *Contract* between Baldwin County and you, for right-of-way acquisition appraisals on future projects of the Highway Department. This *Contract* shall become effective February 1, 2014 (pending full execution by both parties) and will terminate three years from effective date or five (5) days written notice by either party.

Enclosed is a **fully executed copy** of the *Contract* for your file.

If you have any questions or need further assistance, please do not hesitate to contact me at (251) 972-6833 or Cal Markert, County Engineer, at (251) 937-0371.

Sincerely,

CHARLES F. GRUBER, Chairman
Baldwin County Commission

CFG/met Item BI7

cc: Cal Markert
Lisa Sangster
Wesley Pennington

ENCLOSURE

(BALDWIN COUNTY IS AN EQUAL OPPORTUNITY EMPLOYER M/F)

BALDWIN COUNTY HIGHWAY DEPARTMENT
CONTRACT FOR APPRAISAL REPORT

Contract No.: 110
Appraiser: Edmond G. Eslava, III
Certification No.: GC00058

THIS CONTRACT, entered into this 1st day of February, 2014, between Baldwin County, hereinafter called the "County," acting by and through the Baldwin County Highway Department, represented by the undersigned County Engineer and Edmond G. Eslava, III, of Appraisal & Consultant Group, city of Mobile, State of Alabama. (If Corporation: incorporated in State of Alabama), hereinafter called the "Appraiser", witnesseth that the parties do hereby agree as follows:

1. This contract will terminate three years from its date above written. Work authorized during the term of this contract shall be covered and reimbursable hereunder.

2. The Appraiser and its employees will not be subject to the provisions, nor entitled to the benefits, of the County Merit System law. This contract may be terminated by either party upon five days' written notice. *Exhibit A* and *Exhibit B* are attached hereto and made a part of this agreement.

3. The County neither perceives nor intends, by this Contract, a granting of an exclusive franchise or violation of Art. I, Section 22 of the Alabama Constitution.

4. The Appraiser shall appraise that certain property or properties as shown described by Project Number and Tract Number in subsequent agreements made pursuant to this contract and which will by reference become part of this contract. The appraisal services may consist of any of the following: (1) the preparation and submission of real property appraisal reports; (2) the preparation and submission of real property appraisal review reports; (3) such miscellaneous reports, estimates, or studies as deemed necessary for required Project and/or Tract right of way acquisitions; and (4) personal appearances as expert witness on behalf of the County for valuation (deposition and/or trial) testimony and authorized pre-trial conferences relative to condemnation proceedings involving any previously submitted report by the Appraiser of the type referred to in items (1), (2) and (3) above. Fees for appraisal reports and appraisal review reports shall be quoted and approved on a per tract basis. Fees for services provided under item (3) above may be approved as appropriate by lump sum estimate, per diem rates, and/or per tract quotes. Expert witness fees provided under item (4) shall be based on current per diem rates approved for the certification classification of the Appraiser.

5. Appraiser shall make a detailed field inspection and identification of the various items of the property or properties and shall make such investigation and studies as are appropriate and necessary to enable the Appraiser to derive sound conclusions and to prepare the appraisal report to be furnished under this contract. For the purposes of this Contract the term "appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information. The Appraiser shall afford the property owner or the owner's representative the opportunity to accompany the Appraiser on this inspection for the purpose of pointing out any items or providing any information, which in the owner's opinion affect(s) value. Upon completion of the inspections, investigations and studies, the Appraiser shall prepare, furnish and deliver to the County an appraisal report or reports in quadruplicate covering said property or properties.

   A. FORM REPORTS: The report or reports shall, in form and substance, conform with the Alabama Department of Transportation's, hereinafter called "ALDOT", Form Appraisal (ROW-FA), which is the current version of such Form at the time of the completion of the respective report or reports.

   B. NARRATIVE REPORTS: The report or reports shall, in form and substance, conform to recognized appraisal principles and practice in accordance with existing State law and the real property acquisition appraisal requirements for Federal and federally-assisted programs as described in §24.103(a) of title 49, Code of Federal Regulations, as amended. These requirements are intended to be consistent with the Uniform Standards of Professional Appraisal Practice (USPAP), as amended. Each submitted appraisal report shall contain, as a minimum, the below listed six (6) requirements.

      1) An adequate description of the physical characteristics of the property being appraised (and in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property (**), a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property.

      2) All relevant and reliable approaches to value consistent with established Federal and federally-assisted program appraisal practices. If the Appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the Appraiser's opinion of value.

      3) Color Photographs and a description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.

4) A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate.

5) The effective date of valuation, date of appraisal, signature, and certification of the Appraiser.

6) A Scope of Work statement which adequately describes what County and the contracted Appraiser each are to do, and what is the mutually expected outcome of the assignment/agreement. The Scope of Work statement will be developed with input from both County and the Appraiser.

(**) In accordance with the final rule issued on January 4, 2005 (effective 2/3/05) revising title 49 CFR Part 24 [§ 24.103(a) – rule and Appendix A] the Appraiser must now identify items in the appraisal report considered to be "real property" as well as those considered to be "personal property." Accordingly, for each tract assignment involving structures to be acquired, the Appraiser will be required to coordinate an "on-site" meeting with appropriate County staff personnel in order to accommodate this requirement; unless informed in writing on a per tract basis by County personnel that it has been determined such a required meeting is not necessary. *It is the intent of County that the Appraiser will be informed of each required realty vs personalty meeting prior to executing a Work Authorization Order issued by the County Highway Department.* The results of these meetings are to be included in the appraisal report(s) and will serve as guides in this area for the balance of the acquisition process. If needed, legal counsel is to be consulted when there are questions as to the status of a given item.

In addition, the report or reports shall present adequate factual data to support each rate, percentage, or amount used with a reason for each in sufficient detail to permit an intelligent review of the appraisal report; shall relate a conclusion based on those facts; shall include a certificate completed and signed by the Appraiser; and shall, among other things, include wherever appropriate the utilization of the three customary approaches to market value, i.e., (a) Market Data, including all pertinent comparable sales and in what respect the subject tract is comparable, (b) Income Approach and (c) Cost Approach with depreciation and reproduction studies. Unless otherwise specified in the proposal submitted by the Appraiser, all three approaches to value are required to be submitted. Where the entire tract or parcel is to be acquired by or for the County, the ultimate determination of the Appraiser shall be the reasonable market value of the subject tract as of the time of the completion of the appraisal. Where only a part of the property is to be acquired, the ultimate determination shall be the value of the property immediately before the taking and the value immediately after the taking, giving effect to and setting out as a credit any enhancement to the remaining tract arising out of the construction or itemizing separately any damage to the remainder land or improvements, as the case may be, and in each instance setting out the value of the land and improvements to be acquired. It shall be the responsibility of the County to determine the items that are noncompensable under the existing laws of the State and the Appraiser will omit such items from his report. An appraisal review checklist, which may also serve as a narrative form appraisal report outline guide, is beneficial and may be used.

C. SHORT FORM REPORTS: The appraisal report or reports shall, in form and substance, conform with the "Short Form Appraisal Report" section of ALDOT's Instructions for Form Appraisal report (ROW-FA-18) which is the current version of the same at the time of the completion of the respective report or reports.

6. County shall review all appraisal and specialty reports of real property to be acquired in connection with Federal-Aid programs or projects and establish an amount which it believes to be just compensation for such acquisition before the initiation of negotiations. The Uniform Act, Section 301 and 49 CFR 24.104, as amended require that, a) a qualified reviewing appraiser shall examine all appraisals to assure that they meet applicable appraisal requirements and shall, prior to acceptance, seek necessary corrections or revisions and b) If the reviewing appraiser is unable to approve or recommend approval of an appraisal as an adequate basis for the establishment of just compensation, and it is determined that it is not practical to obtain an additional appraisal, the reviewing appraiser may develop appraisal documentation in accordance with 49 CFR 24.103 to support an approved or recommended value. The purpose is to ensure that a qualified review appraiser determines the estimate of fair market value is reasonably supported by an acceptable appraisal. An appraisal reviewer, as identified by the County Highway Department, will determine whether a report (or reports) contains factual information, proper documentation, appropriately supported conclusions, and is in conformance with applicable laws and regulations.

The reviewer should examine each appraisal report to determine the following:

1) That it has been completed in accordance with the ALDOT's appraisal specifications and/or applicable agreement with the contracted Appraiser.

2) That it follows accepted appraisal principles and techniques in the valuation of real property in accordance with Alabama law.

3) That it contains or makes reference to the information necessary to explain, substantiate, and thereby document the conclusions and estimate of fair market value indicated in the report.

4) That it includes consideration of compensable items, damages and benefits, if any, and does not include compensation for items that are non-compensable under Alabama law.

5) That it contains identification, including ownership, or listing of the buildings, structures, and improvements on the land as well as the fixtures which were considered as part of the real property.

6) That it contains an acceptable "Scope of Work" statement.

7) That it contains a complete listing of all items and improvements considered as personalty (and whether omitted from value consideration in the report) and an identification of all real property.

8) That it contains an estimate of fair market value for the acquisition, and as appropriate in the case of a partial acquisition, an allocation of the estimate of fair market value for the real property and for damages to the remaining property.

The review appraiser is not to substitute his/her judgment for that of the Appraiser, but where the review appraiser finds analytical and/or factual deficiencies, shall request remedial action be taken. The review appraiser should first ask the Appraiser to consider making the required corrections in the appraisal report. Any needed factual data or analytical changes that cannot be handled in this manner will result in the review appraiser, in effect, becoming the Appraiser and the review appraiser assuming the burden of substantiating and documenting the valuation in accordance with recognized appraisal standards for the type report under review. The appraisal report itself should not be changed by the review appraiser.

Upon completion of the review, the review appraiser will provide a written report on the results of his/her review(s), which will include submission of the following required ALDOT forms: 1) Appraisal Review Checklist & Visual Inspection Certificate (Form A-6); 2) Appraisal Review Report/ Summary of Appraisal (Form A-16); 3) a listing of the review appraiser's Special Assumptions and Contingent and Limiting conditions; and 4) a signed and dated certification setting forth the estimate of just compensation and other required statements and conditions of the appraisal review. The review appraiser shall identify each appraisal report as being classified in one of the following three categories:

1) ***Not Accepted*** (unable to obtain necessary corrections, revisions, or additional data)
2) ***Accepted*** (meets all requirements, but not selected as recommended or approved)
3) ***Recommended*** (as basis for establishment of amount believed to be just compensation).

7. The Appraiser, within the specified number of calendar days from the date of the work authorization order, said date being the day on which the County signature is perfected, shall deliver the required number of copies of the completed report(s) to the requesting County personnel. The valuation date shown on the report shall not precede the submission date by more than twenty (20) days.

8. The Appraiser shall not divulge and shall take all reasonable steps to ensure that no staff or organization member divulges any information concerning such appraisal reports to any person other than a duly authorized representative of the County or a person authorized in writing by the County to obtain such information.

9. The Appraiser agrees that for a period of two years following the date of the completion of this report covering said property, the Appraiser and the employees of said Appraiser will not, on their own account, negotiate for the property or perform services for others in connection with the said property unless the written consent of the County Engineer is first obtained.

10. Appraiser agrees that the County or any of the duly authorized representatives shall, until the expiration of three (3) years after final payment under this agreement, have access to and the right to examine any directly pertinent books, documents, papers and records of the Appraiser involving transactions related to this agreement.

11. The Appraiser agrees to indemnify, defend and hold County and its affiliates, employees, agents, and representatives (collectively "County") harmless from and against any and all claims, demands, liabilities, damages, losses, judgments, costs, and expenses including, without limitations, attorneys' fees, for any and all personal injury (including death) and property damage of any kind or nature whatsoever, incurred by, asserted against, or imposed upon County, as a result of or in any manner related to provision of services hereunder, or any act or omission arising from the performance of the work called for by this contract due to activities of the Appraiser, agents of the Appraiser, or employees of the Appraiser. Appraiser shall provide the County with proof of general liability coverage including the County as an additional insured.

12. The Appraiser agrees to comply with all Federal, State and local laws and ordinances applicable to this work. Including, without limitation, those laws listed within **Exhibit "B",** as if fully set forth herein, to the extent applicable to this Agreement and the services herein required or incidental thereto.

13. The Appraiser agrees to abide by ALDOT'S "Principles of Business Conduct".

14. The Appraiser agrees that no part of this work shall be transferred or sublet to any persons or firms without the expressed approval of the County. Transferring or subletting of work shall consist of the Appraiser utilizing the services of others and placing sole reliance on the information furnished by such persons and assuming no responsibility for the accuracy thereof. The employment of persons to measure buildings, to estimate replacement or reproduction costs of improvements, or to gather any information to be used by the Appraiser will not be considered as transferring or subletting these portions of the appraisal assignment, provided the Appraiser assumes the responsibility for the accuracy of such measurements, estimates and any other information furnished by those whom the appraiser has employed.

15. In consideration of the performance of the undertakings under this contract, the Appraiser shall be paid by the County the lump sum of each approved proposal in agreements executed pursuant to the requirements of this contract, which shall constitute full payment to the Appraiser and shall include costs of all supplies, materials and equipment, and other expenses of any kind of nature including revisions or corrections incurred by the Appraiser in performing hereunder. The lump sum shown above shall also include the cost to the Appraiser of all necessary professional services such as that of an architect or building estimator unless otherwise stipulated by Highway Department letter to the Appraiser and in the Appraiser's proposal. Payment shall become due after the County Engineer has reviewed and approved the reports and a submission of an invoice approved by the County Engineer or his designee.

    In addition to the lump sum, should it be necessary that the Appraiser appear in court on the County's behalf, or conferences preparatory thereto, the per diem fee for so doing, including all expenses, shall be $ 500.00 per day.

16. The Appraiser warrants that no company has been retained or person has been employed, other than a bona fide employee working solely for the Appraiser, to solicit or secure this agreement and that the Appraiser has not paid or agreed to pay any company, firm or person, other than a bona fide employee working solely for the Appraiser, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this agreement. For breach or violation of this warranty, the County shall have the right to annul this agreement without liability.

17. The County at any time, by written order, can make any changes in this contract which may affect the contents, scope or number of copies of the appraisal reports to be delivered hereunder, or the time of delivery. If such changes justify an increase or decrease in the amount provided to be paid by this contract or in the time required for its performance, an equitable adjustment shall be made and the contract shall be modified in writing accordingly.

18. At the time of receipt and acceptance thereof, the appraisal report(s) to be furnished by the Appraiser shall become and remain the sole property of the County.

19. Except as otherwise provided in this contract, any dispute arising under this contract which is not disposed of by agreement shall be decided by the County Engineer, who shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Appraiser. Such decision shall be final and conclusive with respect to questions of fact unless, within ten days from the date of receipt of such copy, the Appraiser appeals therefrom to the Baldwin County Commission by furnishing the County Engineer a written notice of such appeal together with the grounds or position therefore; the County Engineer shall then transmit the file and issue to the Baldwin County Commission. The decision of the Baldwin County Commission or a duly authorized representative shall be final and conclusive unless determined by a court or competent jurisdiction to have been fraudulent, capricious or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. Nothing in this "Disputes" clause shall be construed as making final an administrative decision on a question on law. In connection with any appeal under the "Disputes" clause, the Appraiser shall be afforded an opportunity to be heard and to offer evidence in support of the appeal. Pending final decision of any dispute hereunder, the Appraiser shall proceed diligently with the performance of the contract and in accordance with the decision of the County Engineer or any modification thereof which may be made hereunder.

20. Failure on the part of the Appraiser to comply with the terms of this contract and to submit completed appraisals to the County Engineer within the specified time limit or to furnish supplemental information and documentation requested within the specified time limit will constitute cause for cancellation of this contract or any agreement made pursuant thereto.

21. Equal Rights Provisions: During the performance of this contract, the Appraiser, individually, and for any assignees and successors in interest of the Appraiser, agrees as follows:

    (a) Compliance with Regulations: The Appraiser will comply with the Regulations of the Alabama Department of Transportation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

    (b) Nondiscrimination: The Appraiser, with regard to all work performed after award and prior to completion of the contract work, will not discriminate on the ground of race, color, religion, sex or national origin in the selection and retention of subcontractors, including procurements of

materials and leases of equipment. The Appraiser will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

The Appraiser will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375, and the rules, regulations (41 CFR, Part 60) and relevant orders of the Secretary of Labor.

(c) Solicitations: In all solicitations either by competitive bidding or negotiation made by the Appraiser for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor, supplier or lessor shall be notified by the Appraiser of the Appraiser's obligations under this contract and the Regulations relative to non-discrimination on the ground of race, color, religion, sex or national origin.

(d) Information and Reports: The Appraiser will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Baldwin County Highway Department, ALDOT or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of an appraiser is in the exclusive possession of another who fails or refuses to furnish this information, the Appraiser shall so certify to the Baldwin County Highway Department, ALDOT or the Federal Highway Administration, as appropriate, and shall set forth what efforts have been made to obtain the information.

(e) Sanctions for Noncompliance: In the event of the Appraiser's noncompliance with the nondiscrimination provisions provided for herein, the Baldwin County Highway Department shall impose such contract sanctions as it or ALDOT or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

(1) Withholding of payments to the Appraiser under the contract until the Appraiser complies, and/or
(2) Cancellation, termination or suspension of the contract, in whole or in part.

(f) Incorporation of Provisions: The Appraiser will include the foregoing provisions (a) through (f) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, orders or instructions issued pursuant thereto. The Appraiser will take such action with respect to any subcontract, procurement, or lease as the Baldwin County Highway Department, ALDOT or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance; however that, in the event an Appraiser becomes involved in, or is threatened with, litigation with a subcontractor, supplier, or lessor as a result of such direction, the Appraiser may request the County to enter into such litigation to protect the interests of the County and, in addition, the Appraiser may request ALDOT or the United States to enter into such litigation to protect the interests of the United States.

22. Participation by Disadvantaged Business Enterprises in Federal-Aid Programs

Policy: It is the policy of the U.S. Department of Transportation that Disadvantaged Business Enterprises (DBE), as defined in 49 CFR, Part 26, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the DBE requirements of 49 CFR, Part 26, apply to this agreement.

DBE Obligation: The recipient of funds under the terms of this agreement agrees to ensure that Disadvantaged Business Enterprises, as defined in 49 CFR, Part 26, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, such recipient shall take all necessary and reasonable steps in accordance with 49 CFR, Part 26, to ensure that Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts and shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of U.S. Department of Transportation-assisted contracts.

Failure of the recipient of funds under the terms of this agreement, or failure of its SUBCONSULTANT (if a SUBCONSULTANT is authorized) to carry out the DBE requirements of this agreement, shall constitute a breach of contract and may result in termination of the contract by the COUNTY or such other remedy may be undertaken by the COUNTY as it deems appropriate.

23. This Contract shall in all respects be construed and enforced according to the laws of the State of Alabama, without regard to Alabama conflict of laws principles.

24. Appraiser shall use forms and form numbers as required by ALDOT at the time(s) at which related appraisal reports are submitted hereunder. Additionally, Appraiser shall comply with all federal regulations which are applicable at the time(s) services are rendered hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this contract on the day and date first above written.

APPRAISER
EDMOND G. ESLAVA, III

BALDWIN COUNTY COMMISSION

BY: _____
CHARLES F. GRUBER, CHAIRMAN
BALDWIN COUNTY COMMISSION

ATTEST: _____
DAVID A. Z. BREWER, ADMINISTRATOR

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, Monica E. Taylor, a Notary Public in and for said County, in said State, hereby certify that CHARLES F. GRUBER, as Chairman of the Baldwin County Commission, and DAVID A. Z. BREWER, as County Administrator of the Baldwin County Commission, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, they, as such officers and with full authority, executed the same voluntarily for and as the act of said Baldwin County Commission.

Given under my hand and official seal, this the 4th day of February, 2014.

Monica E. Taylor
Notary Public

My Commission Expires: My Commission Expires 09/05/2016

MONICA E. TAYLOR NOTARY PUBLIC ALABAMA STATE AT LARGE

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, Gayle Patterson, a Notary Public in and for said County, in said State, hereby certify that EDMOND G. ESLAVA, III, is the individual whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the 24th day of January, 2014.

Gayle Patterson
Notary Public

My Commission Expires: _____

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Nov 7, 2016
BONDED THRU NOTARY PUBLIC UNDERWRITERS

GAYLE PATTERSON NOTARY PUBLIC

EXHIBIT "A"
CERTIFICATION

This certification is applicable to the instrument to which it is attached whether attached directly or indirectly with other attachments to such instrument.

The prospective participant/recipient, by causing the signing of and the submission of this Federal contract, grant, loan, cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, and the person signing same for and on behalf of the prospective participant/recipient each respectively certify that to the best of the knowledge and belief of the prospective participant or recipient and of the person signing for and on behalf of the prospective participant/recipient, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the prospective participant/recipient or the person signing on behalf of the prospective participant/recipient as mentioned above, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with 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 influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U.S. Code, the prospective participant/recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. 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.

The prospective participant/recipient also agrees by submitting this Federal contract, grant, loan, cooperative agreement or other instrument as might be applicable under Section 1352, Title 31, U.S. Code, that the prospective participant/recipient shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such subrecipients shall certify and disclose accordingly.

Exhibit B

MISCELLANEOUS FEDERAL CLAUSES

To the extent that any of the following provisions are applicable to this Agreement or to any project being performed pursuant to and at anytime during the term of this Agreement, the Appraiser agrees to be bound by these laws, without limitation. The term "Project" as used herein means, without limitation, any activity or project performed by the Appraiser pursuant to this Agreement.

No Federal Government Obligations to Third Parties.
In connection with the Project, the Appraiser agrees that, absent the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to any lessee, third party contractor, or other participant at any tier of the Project or this Agreement, or other person or entity that is not a party to the Grant Agreement or Cooperative Agreement for the Project. Notwithstanding that the Federal Government may have concurred in or approved any solicitation, subagreement, lease, third party contract, or arrangement at any tier, the Federal Government has no obligations or liabilities to any entity other than the Recipient, including any lessee, third party contractor, or other participant at any tier of the Project.

False or Fraudulent Statements or Claims.
The Appraiser acknowledges and agrees that:

(1) Civil Fraud. 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 the activities in connection with the Project. By executing the Agreement for the Project, the Appraiser certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project. In addition to other penalties that may apply, the Appraiser also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government, the Federal Government reserves the right to impose on the Appraiser the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, to the extent the Federal Government deems appropriate.

(2) Criminal Fraud. If the Appraiser makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government or includes a false, fictitious, or fraudulent statement or representation in any agreement with the Federal Government in connection with a Project authorized under 49 U.S.C. chapter 53 or any other Federal law, the Federal Government reserves the right to impose on the Appraiser the penalties of 49 U.S.C. § 5323(l), 18 U.S.C. § 1001, or other applicable Federal law to the extent the Federal Government deems appropriate.

Access to Third Party Contract Records.
The Appraiser agrees to require their third party contractors and third party subcontractors at each tier to provide to the U.S. Secretary of Transportation and the Comptroller General of the United States or their duly authorized representatives, access to all third party contract records as required by 49 U.S.C. § 5325(g). The Appraiser further agrees to require, and assures that its third party contractors and third party subcontractors, at each tier, to provide sufficient access to third party procurement records as needed for compliance with Federal laws and regulations or to assure proper Project management as determined by FTA.

Access to Records of Appraisers.
The Appraiser agrees to permit the U.S. Secretary of Transportation, the Comptroller General of the United States, and, to the extent appropriate, the State, or their authorized representatives, upon their request to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Appraiser pertaining to the Project, as required by 49 U.S.C. § 5325(g).

Federal Laws, Regulations, and Directives.
The Appraiser agrees that Federal laws and regulations control Project award and implementation.

Civil Rights.
The Appraiser agrees to comply with all applicable civil rights laws and regulations, in accordance with applicable Federal directives, except to the extent that the Federal Government determines otherwise in writing. These include, but are not limited to, the following:

a. Nondiscrimination in Federal Public Transportation Programs. The Appraiser agrees to comply, and assures the compliance of each lessee, third party contractor, or other participant at any tier of the Project, with the provisions of 49 U.S.C. § 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.

b. Nondiscrimination – Title VI of the Civil Rights Act. The Appraiser agrees to comply, and assures the compliance of each lessee, third party contractor, or other participant at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d *et seq.*, and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of

Title VI of the Civil Rights Act," 49 C.F.R. Part 21. Except to the extent FTA determines otherwise in writing, the Appraiser agrees to follow all applicable provisions of the most recent edition of FTA Circular 4702.1A, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," and any other applicable Federal directives that may be issued.

c. Equal Employment Opportunity. The Appraiser agrees to comply, and assures the compliance of each lessee, third party contractor, or other participant at any tier of the Project, with all equal employment opportunity (EEO) provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*, and implementing Federal regulations and any later amendments thereto. The Appraiser also agrees to follow all applicable Federal EEO directives that may be issued. Accordingly:

(1) General. The Appraiser agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Appraiser agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotions or transfers, recruitment or recruitment advertising, layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

d. Nondiscrimination on the Basis of Sex. The Appraiser agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. Part 25, that prohibit discrimination on the basis of sex.

e. Nondiscrimination on the Basis of Age. The Appraiser agrees to comply with all applicable requirements of:

(1) The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and with implementing U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. Part 90, which prohibit discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal financial assistance.

(2) The Age Discrimination in Employment Act (ADEA) 29 U.S.C. §§ 621 through 634 and with implementing U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625, which prohibits discrimination against individuals on the basis of age.

f. Access for Individuals with Disabilities. The Appraiser agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Appraiser also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of programs or activities receiving Federal financial assistance; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the Appraiser agrees to comply with applicable implementing Federal regulations, and any later amendments thereto, and agrees to follow applicable Federal implementing directives. Among those regulations and directives are:

(1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;

(2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;

(3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;

(4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;

(5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;

(6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;

(7) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;

(8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F;

(9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;

(10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and

(11) Federal civil rights and nondiscrimination directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

g. Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections. To the extent applicable, the Appraiser agrees to comply with the confidentiality and civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2, and any amendments thereto.

h. Access to Services for Persons with Limited English Proficiency. The Appraiser agrees to facilitate compliance with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and follow applicable provisions of U.S. DOT Notice, "DOT Policy Guidance Concerning Appraisers' Responsibilities to Limited English Proficiency (LEP) Persons," 70 *Fed. Reg.* 74087, December 14, 2005, except to the extent that FTA determines otherwise in writing.

i. Environmental Justice. The Appraiser agrees to facilitate compliance with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing.

j. Other Nondiscrimination Laws. The Appraiser agrees to comply with applicable provisions of other Federal laws and regulations, and follow applicable Federal directives prohibiting discrimination, except to the extent the Federal Government determines otherwise in writing.

Federal Standards.
The Appraiser agrees to comply with applicable third party procurement requirements of 49 U.S.C. chapter 53 and Federal laws in effect now or subsequently enacted; with applicable U.S. DOT third party procurement regulations at 49 C.F.R. § 18.36 or 49 C.F.R. §§ 19.40 through 19.48, and with other applicable Federal regulations pertaining to third party procurements and later amendments thereto.

Debarment and Suspension.
The Appraiser agrees to comply, and assures the compliance of each lessee, third party contractor, or other participant at any tier of the Project, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. Part 180. The Appraiser agrees to, and assures that its lessees, third party contractors, and other participants at any tier of the Project will, review the "Excluded Parties Listing System" at http://epls.gov/ before entering into any subagreement, lease, third party contract, or other arrangement in connection with the Project.

Lobbying Restrictions.
The Appraiser agrees that:

(1) In compliance with 31 U.S.C. § 1352(a), it will not use Federal assistance to pay the costs of influencing any officer or employee of a Federal agency, Member of Congress, officer of Congress or employee of a member of Congress, in connection with making or extending the Grant Agreement or Cooperative Agreement;

(2) In addition, it will comply with other applicable Federal laws and regulations prohibiting the use of Federal assistance for activities designed to influence Congress or a State legislature with respect to legislation or appropriations, except through proper, official channels; and

(3) It will comply, and will assure the compliance of each lessee, third party contractor, or other participant at any tier of the Project with U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352, as amended.

Air Quality.
Except to the extent the Federal Government determines otherwise in writing, the Appraiser agrees to comply with all applicable Federal laws and regulations and follow applicable Federal directives implementing the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q. Specifically:

(1) The Appraiser agrees to comply with the applicable requirements of subsection 176(c) of the Clean Air Act, 42 U.S.C. § 7506(c); to comply with U.S. EPA regulations, "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93, Subpart A; and to comply with any other applicable Federal conformity regulations that may be promulgated at a later date. To support the requisite air quality conformity finding for the Project, the Appraiser agrees to implement each air quality mitigation or control measure incorporated in the applicable documents accompanying approval of the Project. The Appraiser further agrees that any Project identified in an applicable State Implementation Plan (SIP) as a Transportation Control Measure will be wholly consistent with the design concept and scope of the Project described in the SIP.

(2) U.S. EPA also imposes requirements implementing the Clean Air Act, as amended, that may apply to public transportation operators, particularly operators of large public transportation bus fleets. Accordingly, to the extent they apply to the Project, the Appraiser agrees to comply with U.S. EPA regulations, "Control of Air Pollution from Mobile Sources," 40 C.F.R. Part 85; U.S. EPA regulations, "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," 40 C.F.R. Part 86; and U.S. EPA regulations "Fuel Economy of Motor Vehicles," 40 C.F.R. Part 600, and any revisions thereto.

(3) The Appraiser agrees to comply with the notice of violating facility provisions of section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7414, and facilitate compliance with Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

Clean Water.
Except to the extent the Federal Government determines otherwise in writing, the Appraiser agrees to comply with all applicable Federal laws and regulations and follow applicable Federal directives implementing the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377. Specifically:

(1) The Appraiser agrees to protect underground sources of drinking water in compliance with the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§ 300f through 300j-6.

(2) The Appraiser agrees to comply with the notice of violating facility provisions of section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and facilitate compliance with Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

Clean Air and Clean Water.
The Appraiser agrees to include in each lease, third party contract, or other arrangement exceeding $100,000, adequate provisions to ensure that each Project participant will agree to:

(1) Report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities,"

(2) Refrain from using any violating facilities,

(3) Report violations to FTA and the Regional U.S. EPA Office, and

(4) Comply with the inspection and other applicable requirements of:

(a) Section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7606, and other applicable provisions of the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q; and

(b) Section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and other applicable requirements of the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377.

Fly America.
The Appraiser understands and agrees that the Federal Government will not participate in the costs of international air transportation of any individuals involved in or property acquired for the Project unless that air transportation is provided by U.S.-flag air carriers to the extent such service is available, in compliance with section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 through 301-10.143.

Seismic Safety.
The Appraiser agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. §§ 7701 *et seq.*, in accordance with Executive Order No. 12699, "Seismic Safety of Federal and Federally-Assisted or Regulated New Building Construction," 42 U.S.C. § 7704 note, and comply with implementing U.S. DOT regulations, "Seismic Safety," 49 C.F.R. Part 41 (specifically, 49 C.F.R. § 41.117).

Patent Rights.
a. General. If any invention, improvement, or discovery of the Appraiser or of any, lessee, third party contractor, or other participant at any tier of the Project is conceived or first actually reduced to practice in the course of or under the Project, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Appraiser agrees to notify FTA immediately and provide a detailed report in a format satisfactory to FTA.

b. Federal Rights. The Appraiser agrees that its rights and responsibilities, and those of each lessee, third party contractor, or other participant at any tier of the Project, pertaining to that invention, improvement, or discovery will be determined in accordance with applicable Federal laws and regulations, including any waiver thereof. Absent a determination in writing to the contrary by the Federal Government, the Appraiser agrees to transmit to FTA those rights due the Federal Government in any invention, improvement, or discovery resulting from that subagreement, third party contract, third party subcontract, or arrangement, as specified in 35 U.S.C. §§ 200 *et seq.*, and U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants,
Contracts and Cooperative Agreements," 37 C.F.R. Part 401, irrespective of the status of the Appraiser, lessee, third party contractor or other participant in the Project (*i.e.*, a large business, small business, State government, State instrumentality, local government, Indian tribe, nonprofit organization, institution of higher education, or individual).

c. License Fees and Royalties. FTA considers income earned from license fees and royalties for patents, patent applications, and inventions produced under the Project to be program income. Except to the extent FTA determines otherwise in writing, as provided in 49 C.F.R. Parts 18 and 19, the Appraiser has no obligation to the Federal Government with respect to that program income, apart from compliance with 35 U.S.C. §§ 200 *et seq.*, which applies to patent rights developed under a research project.