

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "Agreement") is made and entered into on this 29 day of May, 2026, by and between **LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government and political subdivision of the Commonwealth of Kentucky pursuant to KRS 67A (hereinafter "**LFUCG**"), whose mailing address is 200 East Main Street, Lexington, Kentucky 40507, and the **TRANSIT AUTHORITY OF LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, KENTUCKY**, (hereinafter "**LEXTRAN**"), whose mailing address is 200 West Loudon, Lexington, Kentucky 40508.

WITNESSETH

WHEREAS, LEXTRAN has proposed the introduction of a Microtransit Pilot Project ("Microtransit Pilot Project") as an on-demand, flexible transportation service designed to supplement LEXTRAN's fixed-route bus and paratransit network and to enhance mobility, connectivity, and economic activity in and near areas where traditional bus service is less effective through demand-responsive trips within a defined zone; and

WHEREAS, in recognition of the public purposes promoted by the Microtransit Pilot Project in promoting public transit, improving mobility in areas where traditional bus service is less effective, strengthening first-mile and last-mile transportation connections, providing service to lower-density neighborhoods, and filling key transportation gaps for Lexington-Fayette County residents with limited transportation options, LFUCG has agreed to contribute \$725,000.00 in local funding for operational costs associated with the Microtransit Pilot Project; and

WHEREAS, LFUCG and LEXTRAN agree to collaborate with the implementation of the Microtransit Pilot Project; and

WHEREAS, the parties are in general agreement about the responsibilities and obligations of each party in connection with the Microtransit Pilot Project and wish to memorialize their understandings into this Agreement.

NOW, THEREFORE, in consideration of the foregoing and mutually agreed upon promises, conditions, and covenants hereinafter set forth, the receipt and sufficiency of which are acknowledged, the parties hereby agree as follows:

1. EFFECTIVE DATE; TERM. This Agreement shall commence as of the date set forth hereinabove and continue through December 31, 2027 or until all LFUCG funding for the Microtransit Pilot is exhausted, unless terminated by LFUCG at an earlier time.

2. RELATED DOCUMENTS. This Agreement shall consist of the terms herein as well as the following additional documents, which are attached hereto as exhibits and incorporated herein by reference as if fully stated:

- a. Exhibit "A" – Scope of Work and Funding Plan
- b. Exhibit "B" – LEXTRAN Microtransit RFP

To the extent that there is conflict between or among these documents, the terms and provisions of this Agreement shall prevail, followed by Exhibit "A", then Exhibit "B."

3. RIGHTS AND OBLIGATIONS OF LFUCG.

- a. **PAYMENT.** LFUCG shall pay LEXTRAN a total amount not to exceed Seven Hundred and Twenty-Five Thousand Dollars (\$725,000.00) ("Funds"), representing its share of the operational costs of the Microtransit Pilot Project for the term of this Agreement. The Funds are limited to the costs of operations as set forth herein and as further outlined in the attached Exhibit "A" – Scope of Work and Funding Plan and may not be spent by LEXTRAN for any other purpose without the prior written consent of LFUCG.
- b. **TERMINATION.** LFUCG, through the Mayor or the Mayor's designee, may terminate this Agreement for any reason whatsoever by providing LEXTRAN with at least thirty (30) days advance written notice. In that event, LEXTRAN shall immediately repay to LFUCG all monies received from LFUCG pursuant to this Agreement less any amount representing just and equitable compensation for LEXTRAN's share of any satisfactory work completed pursuant to the Agreement, calculated on a reasonable basis. Additionally, this Agreement is contingent upon an agreement by LEXTRAN to pursue additional funding to support the Microtransit Pilot Project; if funding for the Project becomes unavailable for any reason, now or in the future, any termination or amendment of the Agreement because of such interruption in funding shall not constitute a default or breach and shall not give rise to any claim against LFUCG.
- c. **MONITORING.** LFUCG may designate such persons as may be necessary to monitor and evaluate the services rendered hereunder by LEXTRAN. LFUCG, its agents, and its employees shall have, at all times, unrestricted access to all places where or in which the services required hereunder are being carried on and conducted. Inspection and monitoring of the work by these authorities shall in no manner be presumed to relieve in any degree the responsibility or obligations of LEXTRAN or to constitute LEXTRAN as an agent of LFUCG.
- d. **NON-APPROPRIATIONS.** LEXTRAN acknowledges that LFUCG is a governmental entity, and that the validity of this Agreement is based upon the availability of appropriated funding. In the event that any necessary funding is not appropriated or becomes otherwise unavailable, now or in the future, LFUCG's obligations under this Agreement shall automatically expire without penalty to the LFUCG thirty (30) days after written notice to LEXTRAN. LFUCG shall exercise any application of this provision in good faith.

4. RIGHTS AND OBLIGATIONS OF LEXTRAN.

- a. LEXTRAN shall perform the Microtransit Pilot Project as outlined in the attached Exhibit "A" – Scope of Work and Funding Plan in a timely and professional manner. LEXTRAN shall use all sums paid to LEXTRAN by LFUCG under this Agreement to fulfill the activities and services referenced herein and for no other purposes. LEXTRAN agrees to internalize as many cost components of the Microtransit Pilot Project as possible, including but not limited to the provision of a qualified vendor to manage the day-to-day operations of the Microtransit Pilot Project, the provision of service vehicles and maintenance, the provision of fuel, secured parking, branding, and administrative overhead (e.g., program oversight, procurement, marketing), so that LFUCG's financial support can be directed to operations. LEXTRAN also agrees to seek additional funding from alternative funding sources in order to continue to

provide microtransit services, both as part of the Microtransit Pilot Project as outlined in the attached Exhibit A and in support of the possible continuation of LEXTRAN microtransit services beyond the Microtransit Pilot Project.

- b. **COMPLIANCE WITH LAWS.** LEXTRAN shall keep itself fully informed of all federal and state laws and all municipal ordinances and regulations in any manner affecting the work or performance of this Agreement and shall at all times observe and comply with such laws, ordinances, and regulations, whether or not such laws, ordinances, or regulations are mentioned herein.
- c. **REPORTING.** LEXTRAN shall provide LFUCG with timely reports and updates related to the provision of the Microtransit Pilot Project set forth herein, in the form and manner reasonably specified by LFUCG. At minimum, LEXTRAN shall make, upon LFUCG's request, one (1) mid-project presentation to the Council to provide an update on funding and project status, and at the conclusion of the Project or upon the exhaustion of funding for the Project, one (1) presentation to the Mayor and Council detailing the status and progress of the Microtransit Pilot Project and provide such other information as the Mayor or Council may request relating to the Microtransit Pilot Project. LFUCG reserves the right to request such other additional reports and/or presentations to the Mayor or Council as LFUCG deems appropriate for the administration of this Pilot Project, and LEXTRAN agrees to timely provide such other additional reports and/or presentations as requested by LFUCG.
- d. **REGISTRATION; COMPLIANCE; AUTHORITY TO SIGN.** LEXTRAN agrees to require that any qualified vendor providing management over the day-to-day operations of the Microtransit Pilot Program be lawfully registered to do business in the Commonwealth of Kentucky and Lexington-Fayette County at all times. LFUCG may request proof that said vendor has timely filed federal, state, or local tax forms which shall be provided on a timely basis. LEXTRAN represents that the person signing this Agreement is fully authorized to do so and agrees that LEXTRAN shall remain in compliance with all federal, state, and local law governing its operations for the duration of this Agreement. LFUCG may request, at any time, proof that LEXTRAN is compliant with all federal, state, and local requirements governing the Microtransit Pilot Project.
- e. **INDEMNITY.** To the extent permitted by law, LEXTRAN agrees to defend, indemnify, and hold harmless LFUCG and its elected and appointed officials, employees, agents, volunteers, and successors in interest, from and against any and all liability, damages, and losses, including but not limited to: demands, claims, liens, suits, notices of violation from governmental agencies, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees that are in any way incidental to or connected with, or that arise or are alleged to have arisen, directly or indirectly, from or by LEXTRAN's performance of, or breach of this Agreement and/or the provision of goods or services thereunder, provided that (a) it is attributable to personal injury, bodily injury, sickness, or death, or to injury to or destruction of property (including the loss of use resulting therefrom), or to or from the negligent acts, errors, or omissions or willful misconduct of LEXTRAN or its officials, employees, or agents; and (b) not caused solely by willful misconduct of LFUCG. LEXTRAN's obligation to defend LFUCG includes the obligation to investigate, handle, respond to, resist, provide a defense for, and defend claims, at LEXTRAN's expense, using attorneys approved in writing by the LFUCG, which

approval shall not be unreasonably withheld. LEXTRAN's obligation to indemnify includes, but is not limited to: attorney fees and expenses, costs of litigation, court and administrative costs, expert witness fees and expenses, judgments, fines, penalties, interest, and any liability arising from death, injury, or damage of any kind, to any person, including employees and agents of LEXTRAN and LFUCG, and damage to, or destruction of, any property, including the property of LFUCG. This indemnity agreement shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this Agreement. LEXTRAN understands that LFUCG is a political subdivision of the Commonwealth of Kentucky and acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend LEXTRAN in any manner.

- f. **INSURANCE.** LEXTRAN shall procure and maintain for the duration of this Agreement insurance coverages or provide self-insurance in at least the following amounts. Evidence of such coverage shall be made available to LFUCG upon request.

General Liability (\$1 million per occurrence, \$2 million aggregate or \$2 million combined single limit); Commercial Automobile Liability (combined single, \$1 million per occurrence); (if applicable); Professional Liability (\$1 million per occurrence, \$2 million aggregate); Worker's Compensation (Statutory); Employer's Liability (\$1 million); Excess/Umbrella Liability (\$1 million per occurrence). LFUCG shall be named as an additional insured on any General Liability Policy or applicable policy of self-insurance. The General Liability Policy shall be primary to any insurance or self-insurance retained by LFUCG. The General Liability Policy shall also include Premises and Operations coverage unless it is deemed not to apply by LFUCG.

- g. **RECORDS.** LEXTRAN shall keep and make available to LFUCG any records related to this Agreement as are necessary to support its performance of the services for a period of at least five (5) years following the expiration or termination of this Agreement, or as otherwise required depending upon the source of funds. Books of accounts shall be kept by LEXTRAN and entries shall be made therein of all money, goods, effects, debts, sales, purchases, receipts, payments and any other transactions of LEXTRAN related to this Agreement and shall be made available to LFUCG upon request. The books of accounts shall be maintained at the principal place of business of LEXTRAN. LFUCG shall have free and complete access to the books, papers, and affairs of LEXTRAN relating to the funds provided hereunder at all reasonable times. LFUCG shall be the owner of all final documents, data, studies, plans, reports, and information prepared by LEXTRAN and submitted to LFUCG under this Agreement. LEXTRAN understands and agrees that this Agreement and any related documents may be subject to disclosure under the Kentucky Open Records Act and will comply with any reasonable request by LFUCG to assist with such a request.
- h. **ANNUAL AUDIT.** LEXTRAN shall comply with the audit requirements of 200 CFR Part 200, Subpart F, if applicable. LFUCG shall also have the option to request an audit of all revenue and expenditures related to this Agreement. If such an audit is requested by LFUCG, the audit shall be conducted by independent certified public accountants at LEXTRAN's expense, who shall express an opinion as to whether or not revenue and expenditures have conformed to state and local law and regulation. For any audit performed, including an audit performed pursuant to 200 CFR Part 200, a copy of the

audit, or clean audit opinion letter from an independent certified public accountant, shall be submitted to LFUCG upon request.

- i. **EQUAL OPPORTUNITY.** LEXTRAN shall provide equal opportunity in employment for all qualified persons and shall (a) prohibit discrimination in employment because of race, color, creed, national origin, sex, age, sexual orientation, gender identity, or handicap, and (b) cause any subcontractor or agency receiving funds provided pursuant to this Agreement to do so. This assurance of equal employment opportunity shall apply to every aspect of its employment policies and practices. Subject to compliance with applicable federal laws and mandates, LEXTRAN agrees to comply with LFUCG's Fairness Ordinance (Ordinance No. 201-99) and all sources of applicable law, including those specified in any Exhibit attached to this Agreement and incorporated herein by reference.
- j. **SEXUAL HARASSMENT.** LEXTRAN shall adopt or have adopted a written sexual harassment policy, which shall, at a minimum, contain a statement of current law; a list of prohibited behaviors; a complaint process; and a procedure which provides for a confidential investigation of all complaints. The policy shall be given to all employees and clients and shall be posted at all locations where LEXTRAN conducts business. The policy shall be made available to LFUCG upon request.

5. MISCELLANEOUS TERMS AND CONDITIONS.

- a. LEXTRAN and LFUCG each binds itself and its partners, successors, executors, administrators, assigns and legal representatives of such other party, in respect to all covenants, agreements, and obligations of the Agreement.
- b. **CONTRACTUAL RELATIONSHIP ONLY.** In no event shall the parties be construed, held, or become in any way or for any purpose the employee of the other party, or partners, associates or joint ventures in the conduct of their respective endeavors or otherwise. The parties agree that neither is an agent, servant, or employee of the other and each party agrees that it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.
- c. **NO ASSIGNMENT.** LEXTRAN may not assign any of its rights and duties under this Agreement without the prior written consent of LFUCG.
- d. **NO THIRD-PARTY RIGHTS.** This Agreement does not create a contractual relationship with or right of action in favor of a third party against either LEXTRAN or LFUCG.
- e. **KENTUCKY LAW AND VENUE.** This Agreement shall be governed in all respects by the laws of the Commonwealth of Kentucky and venue for all actions shall lie in the Circuit Court of Fayette County, Kentucky.
- f. **AMENDMENTS.** By mutual agreement, the parties to this Agreement may, from time to time, make written changes to any provision hereof. LEXTRAN acknowledges that LFUCG may make such changes only upon approval of its legislative authority, the Lexington-Fayette Urban County Council, and the signature of the Mayor or their designee.

- g. WAIVER. The waiver by either party of any breach of any provision of this Agreement shall not constitute a continuing waiver or waiver of any subsequent breach by either party of either the same or another provision.
- h. NOTICE. Any written notice required by the Agreement shall be delivered by certified mail, return receipt requested, to the following:

If to LEXTRAN:

Transit Authority of
Lexington-Fayette County
Attn: General Manager
200 West Loudon Avenue
Lexington, Kentucky 40508

If to LFUCG:

Lexington-Fayette Urban County Government
Attn: Chief Administrative Officer
Government Center
200 East Main Street
Lexington, Kentucky 40507

- i. ENTIRE AGREEMENT. This Agreement shall constitute the entire agreement between the parties and no representations, inducements, promises or agreements, oral or otherwise, which are not incorporated by reference herein shall be effective for any purpose. This Agreement shall replace any previous agreement between the parties on the same subject matter.

IN WITNESS WHEREOF, the parties have executed this Agreement at Lexington, Kentucky, the day and year first above written.

LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

BY: _____

LINDA GORTON, MAYOR

ATTEST:

Mackenzie Stock
Clerk of the Urban County Council

Deputy

TRANSIT AUTHORITY OF LEXINGTON-
FAYETTE URBAN COUNTY
GOVERNMENT

BY: _____

FRED COMBS
GENERAL MANAGER

COMMONWEALTH OF KENTUCKY)
)
COUNTY OF FAYETTE)

The foregoing Memorandum of Understanding was subscribed, sworn to and acknowledged before me by Fred Combs, as General Manager of the Transit Authority of Lexington-Fayette Urban County Government, on this the 20th day of May, 2026.

My commission expires: 11/08/2029

Nikki Falconbury
NOTARY PUBLIC



EXHIBIT “A”

Pilot Project: Microtransit Scope of Work and Funding Plan

Using funds allocated by the Urban County Council, the Lexington-Fayette Urban County Government (“LFUCG”) is contracting with the Transit Authority of Lexington-Fayette Urban County Government (“Lextran”) to provide funding for the provision of microtransit services in Lexington-Fayette County as a pilot project. LFUCG has allocated \$725,000 in program funds for the Lextran Microtransit Pilot Project in Lexington-Fayette County. Lextran agrees to utilize all program funds provided by LFUCG to provide transportation services within Lexington-Fayette County as set forth herein.

PROJECT OVERVIEW

The Lextran Microtransit Pilot Project is an on demand, flexible transportation service designed to supplement the fixed route bus and paratransit network. The pilot project will improve mobility in areas where traditional bus service is less effective by providing demand responsive trips within a defined service zone, strengthening first mile/last mile connections, serving lower density neighborhoods, and filling key gaps for residents with limited transportation options.

A feasibility study conducted by Lextran provides a financial baseline for a one-year microtransit pilot project. The estimated total cost of the microtransit pilot project is approximately \$738,000. Funding that has been provided by LFUCG for the Lextran Microtransit Pilot Project will be fully utilized for operational costs associated with the project to the point of exhaustion, with Lextran internalizing as many operational and administrative cost components as possible to maximize the direct provision of services to residents of Lexington-Fayette County using LFUCG’s funding allocation.

Lextran shall provide a dedicated Mobility Manager to oversee day-to-day operations and non-core mobility programs, including microtransit service. Additionally, Lextran issued a Request for Proposals (RFP) for a vendor to provide day-to-day management and operational administration of the Lextran Microtransit Pilot Project and, pursuant thereto, Lextran has contracted with Tidewater Transit LLC to manage day-to-day operations for the Lextran Microtransit Pilot Project, including hiring, training, and retaining a sufficient number of staff to fulfill service requirements. Tidewater Transit LLC will provide a Project Manager, who will be responsible for overseeing, managing, and reporting regarding all aspects of the project, including operations, employee support, and customer service. Tidewater Transit LLC will also pursue additional external funding opportunities to support the continuation or expansion of microtransit service beyond the pilot.

ROLES & RESPONSIBILITIES

Lextran will serve as the contracting lead, providing oversight through the Mobility Manager and administering branding, procurement, invoicing, and reporting. Lextran shall apply LFUCG funds directly to operations to the maximum extent possible. Lextran will cover administrative costs required to complete the pilot and is prepared to provide in-kind resources (e.g., vehicles, maintenance, fuel, secured parking, branding, and vehicle insurance) at no cost to Tidewater Transit LLC.

Under contract with Lextran, Tidewater Transit LLC will deliver end-to-end microtransit operations, including but not limited to drivers, dispatch, on-street supervision, customer service, and the technology platform, compliant with all applicable requirements regarding safety, training, the Americans with Disabilities Act, data-reporting, and Lextran customer-facing standards.

LFUCG is providing funding to Lextran for the Microtransit Pilot Project pursuant to the agreement between LFUCG and Lextran. LFUCG has no contractual relationship with Tidewater Transit LLC, and the Agreement does not create any right of action in favor of Tidewater Transit LLC against LFUCG. To the extent permitted by law, Lextran shall defend, indemnify, and hold harmless LFUCG and its elected and appointed officials, employees, agents, volunteers, and successors in interest, from and against any and all liability, damages, losses and claims that are in any way incidental to, connected with, or that arise or allege to have arisen from the Lextran Microtransit Pilot Project, expressly including but not limited to any and all liability, damages, losses, or claims made by or against Tidewater Transit LLC, related to the performance of services relating thereto. Lextran's obligation to defend LFUCG includes the obligation to investigate, handle, respond to, resist, provide a defense for, and defend claims, at Lextran's expense. LFUCG is a political subdivision of the Commonwealth of Kentucky and acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend Lextran in any manner.

SCOPE OF SERVICES & DELIVERABLES

Contract Scope

LFUCG's agreement for funding shall continue through December 31, 2027 or until all LFUCG funding for the Microtransit Pilot is exhausted, unless terminated by LFUCG at an earlier time. Lextran anticipates that microtransit service will launch during the second quarter of FY2027 (October - December).

Microtransit Service Parameters

Lextran plans to operate the microtransit service from 6:00am–8:00pm daily, including weekends and holidays, within Zone 1 – Northwest (9.9 square miles), as identified in the feasibility study for its balanced residential, employment, and paratransit demand. A copy

of the map of the designated microtransit service zone is attached hereto and is incorporated herein by reference.

Service will be curb-to-curb within the established zone under an anywhere-to-anywhere model. The anywhere-to-anywhere model will allow riders to request trips between any two (2) points within the defined service zone, but the entire trip shall remain within the designated service zone. The service will support shared rides and transfers to fixed route service, target predictable wait times (about 20 minutes on average), and allow booking by mobile app, web, or phone. Tidewater Transit LLC's technology platform and fare collection approach shall support the issuance and validation of transfers.

Fares will align with Lextran's system-wide policy – a flat fare per one-way trip with free transfers between microtransit service and fixed route bus service (and vice versa), using Lextran's standard transfer time window. Adjustments to microtransit service fares, discounts, and transfer rules may be adjusted by Lextran in writing to meet program goals and budgetary constraints, to increase project efficiency, and to improve project outcomes; provided, however, that Lextran shall provide LFUCG with written notice of any proposed adjustments to microtransit services not less than thirty (30) days prior to such adjustments becoming effective. By agreement with Lextran, Tidewater Transit LLC will either provide a compliant fleet or opt to use Lextran's accessible Ford Transit vehicles. In all cases, the fleet must be service ready and staffed daily, properly inspected, maintained, and cleaned, and shall meet ADA requirements at all times.

Services provided as part of the Lextran Microtransit Pilot Project, including, but not limited to, zone size, service hours, maximum trip wait time, and minimum fleet requirements may be adjusted in coordination with Tidewater Transit LLC as needed to meet program goals and budgetary constraints, to increase project efficiency, or to improve project outcomes; provided, however, that Lextran shall provide LFUCG with written notice of any proposed adjustments not less than thirty (30) days prior to such adjustments becoming effective.

Roles and Responsibilities

Lextran will provide vehicle branding and fuel (via fuel cards), while Tidewater Transit LLC will supply and maintain all onboard technology and integrations (e.g. booking, dispatch, routing, fare payment). By agreement with Lextran, Tidewater Transit LLC shall staff, train, and supervise operations, ensure licensing and safety requirements (including ADA and customer service training), provide continuous operational supervision, and assign a project manager to coordinate with Lextran.

Funding Plan & Financial Commitments

Lextran will internalize as many cost components as possible, including the provision of service vehicles and maintenance, fuel, secured parking, and branding in an effort to reduce vendor costs. Lextran is committed to using as much of the LFUCG's financial

support for the operations as possible, with Lextran assuming responsibility for additional administrative overhead costs (e.g. program oversight, procurement, marketing).

Fares

Fares will align with Lextran's system-wide policy for fixed route bus service – a flat fare per one-way trip with free transfers provided between microtransit service and fixed route bus service (and vice versa), using Lextran's standard transfer time window.

Recordkeeping and Reporting

In providing these services, Lextran shall maintain records of the following information:

- Number of trips completed, cancelled, customer no-shows, missed or excessively late trips, and trip denials
- On-time performance and wait times
- Vehicle assignments and availability, and if Lextran provides vehicles, all pre-trip checklists and DVIR documents
- Vehicle revenue miles and hours
- Passenger trips by rider type
- National Transit Database (NTD) required reports
- Demand summaries (origin/destination/time of use, boardings per revenue hour)
- Booking abandonment rates
- Incidents, accidents, and complaints
- Road calls, vehicle maintenance
- Ridership trends and analyses (including demographic data, if available)
- Recommendations for service adjustments
- Technology performance summaries
- Call-center performance summaries
- Records documenting exploration of alternative funding sources

This information shall be summarized in reports made to LFUCG required by the Agreement, in the form and manner specified by LFUCG, and such information shall otherwise be timely made available to LFUCG upon request, in the form and manner specified by LFUCG.

Lextran shall, upon LFUCG's request, present a mid-project evaluation to Council, including a funding update and a recommendation for program continuation beyond the pilot project. At the conclusion of this pilot project, or upon exhaustion of all funding for the pilot project, Lextran shall, upon LFUCG's request, make one (1) presentation to the Mayor and Council detailing the status and results of the pilot project and provide such other information as the Mayor or Council may request regarding the pilot project. The presentation to be made to the Mayor and Council at the conclusion of the Microtransit Pilot Project shall include information regarding the availability of alternative funding sources to continue Lextran microtransit services, including a summary of efforts made to secure additional funding and possible alternative funding sources.

LFUCG reserves the right to request such additional reports and/or presentations to the Mayor or Council as LFUCG deems appropriate for the administration of the Lextran Microtransit Pilot Project, and Lextran agrees to timely provide such other additional reports and/or presentations as requested by LFUCG. Upon reasonable demand, Lextran shall make available to LFUCG any and all records related to this agreement as are necessary to support its performance of the services for a period of at least five (5) years following expiration or termination of the agreement or as otherwise required depending upon the source of funds.

Compliance Requirements

Lextran shall, at all times during the pendency of the Agreement, and shall require Tidewater Transit LLC to, at all times during the pendency of the Agreement, comply with all federal, state and local statutory, regulatory, and organizational requirements, including but not limited to the Americans with Disabilities Act, Federal Transit Administration Drug and Alcohol requirements, Title VI requirements, Title VII requirements, Limited English Proficiency requirements, and all other federal and state laws.

Audits

Lextran shall comply with the audit requirements of 200 CFR Part 200, Subpart F, if applicable. LFUCG shall also have the option to request an audit of all revenue and expenditures related to this Agreement. If such an audit is requested by LFUCG, the audit shall be conducted by independent certified public accountants at Lextran's expense, who shall express an opinion as to whether or not expenditures have conformed to state and local law and regulation. For any audit performed, including an audit performed pursuant to 200 CFR Part 200, a copy of the audit, or clean audit opinion letter from an independent certified public accountant, shall be submitted to LFUCG upon request.

REQUEST FOR PROPOSAL

MOU EXHIBIT "B"

2025-08

MICROTRANSIT OPERATIONS SERVICES - PILOT PROGRAM



Lextran

200 West Loudon Avenue

Lexington, KY 40508

RELEASE DATE: December 12, 2025

DEADLINE FOR QUESTIONS: January 9, 2026

RESPONSE DEADLINE: February 13, 2026, 2:00 pm

RESPONSES MUST BE SUBMITTED ELECTRONICALLY TO:

<https://secure.procurenow.com/portal/lextran>

Lextran
REQUEST FOR PROPOSAL
Microtransit Operations Services - Pilot Program

I.	INTRODUCTION.....
II.	SCOPE OF SERVICES
III.	COST
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V.	PROPOSAL CONTENT AND SUBMISSION REQUIREMENTS.....
VI.	PRICING PROPOSAL.....
VII.	EVALUATION PHASES.....
VIII.	STATE AND FEDERAL PROVISIONS
IX.	VENDOR QUESTIONNAIRE

Attachments:

A - CERTIFICATION OF RESTRICTIONS ON LOBBYING

B - CERTIFICATION OF CONTRACTOR REGARDING DEBARMENT, SUSPENSION, AND OTHER
INELIGIBILITY AND VOLUNTARY EXCLUSION

C - NON-COLLUSION AFFIDAVIT

D - CERTIFICATE OF PROCUREMENT INTEGRITY

E - AFFIDAVIT OF COMPLIANCE - DISADVANTAGED BUSINESS ENTERPRISE

F - BUY AMERICA FORM - BUSES & ROLLING STOCK ASSOCIATED EQUIPMENT

G - FINANCIAL CAPACITY FORM

H - LEXTRAN MICROTRANSIT FEASIBILITY STUDY

1. INTRODUCTION

1.1. Summary

The Transit Authority of Lexington-Fayette Urban County Government, herein referred to as Lextran is issuing this Request for Proposals (RFP) to award a competitive contract to a firm for **the management of a Pilot Program for Microtransit Operations Services**.

Title: Microtransit Operations Services - Pilot Program

Reference Number: 2025-08

Proposals for Furnishing the Product(s) / Service(s) Described Herein Will Be Received Until:
2:00 pm eastern time on Friday, February 13, 2026.

Proposals received after the time specified may not be considered for award.

Proposals shall be submitted online via Lextran's eProcurement Portal

If you have any questions on this project, please submit your questions via the Q&A section on Lextran's eProcurement Portal. All questions, requests for clarification or comments concerning this RFP are due from proposers by end of day on Friday, January 9, 2026. Lextran's response to questions will be provided as responses within the Q&A tab. For questions that require additional documentation or a change to the RFP document itself, Lextran will publish an addendum. Lextran intends to respond to questions as they come in, and responses will be provided no later than the question response date.

Lextran may reject any submissions that are incomplete or non-responsive or submitted after the deadline. Lextran reserves the right to cancel or reissue this RFP, or to reject, in whole or in part, any and all submissions received in response to this RFP should Lextran determine that the responses received are unsatisfactory or that such cancellation or rejection is in the best interest of Lextran. Lextran further reserves the right to waive any minor technical deficiency or irregularity in a submission package. The determination of the selection criteria and the process for evaluating the proposal shall be in the sole and absolute discretion of Lextran. Lextran also reserves the right to require of each/any Proposer, information regarding financial responsibility and viability or such other information as Lextran determines is necessary to ascertain whether a proposal is in fact a responsible proposal.

Lextran reserves the right to publicly post bid tabulations containing vendor prices.

1.2. Background

Lextran, the Transit Authority of Lexington-Fayette Urban County Government, was established as it is known today in 1973 by the Commonwealth of Kentucky as a Mass Transportation Authority. Our mission "We serve people and our community with mobility solutions" is accomplished by focusing on three key pillars: Deliver high quality product and service, Demonstrate value to the community, and Manage and sustain resources.

Lextran provides 3.7 million trips annually with service to residents and visitors of Lexington-Fayette County on 25 fixed routes, and county-wide paratransit seven days a week, 365 days a year. With an annual combined operating and capital budget of \$37.6 million, Lextran operates from a LEED certified headquarters employing over 200 team members with a 118-vehicle fleet for both fixed route and paratransit, including compressed natural gas, zero emission battery electric, diesel and gasoline powered vehicles.

1.3. Contact Information

All questions related to this solicitation must be submitted in the Question and Answer section of OpenGov.

No person or entity submitting a proposal in response to this RFP, nor any officer, employee, agent, representative, relative or consultant representing such a person (or entity) may contact through any means or engage in any discussion concerning the award of this contract with any member of the Lextran Board of Directors or any employee of Lextran during the period beginning on the date of proposal issue and ending on the date of selection of the

Contractor. Any such contact would be grounds for disqualification of the proposer. Contact with Lextran Procurement Department staff must be limited to site visits and technical questions.

Deanna Istre Purchasing Manager

200 W Loudon Ave Lexington, KY 40508

Email: distre@lextran.com

Phone: [\(859\) 244-2023](tel:(859)244-2023)

Department: Procurement

1.4. Timeline

This solicitation timeline is subject to change. Any changes made to this solicitation will be published in the form of an Addendum.

Release Project Date	December 12, 2025
Pre-Proposal Meeting (Non-Mandatory)	December 19, 2025, 1:00pm <u>Agenda</u> Lextran – Zoom www.Zoom.com Meeting Number: 811 3847 0963 Meeting Password: 675771 https://us02web.zoom.us/j/81138470963?pwd=XJlNPMbT5Lf7vJDhkpTnTre4HUFDUg.1 Join by Phone: 1(312)535-8110
Question Submission Deadline	January 9, 2026, 11:30pm
Response to Questions	January 23, 2026
Proposal Submission Deadline	February 13, 2026, 2:00pm
Interviews (if necessary)	Week of 2/23/2025
Contractor Award Date	March 25, 2026

2. SCOPE OF SERVICES

2.1. OVERVIEW

Lextran invites qualified firms to submit proposals for the implementation and management of a Microtransit Pilot Program. This initiative represents a significant new chapter in Lextran’s service delivery, and the success of this pilot will depend not only on technical capability, but also on the selection of a Contractor that is prepared to serve as a collaborative partner throughout planning, implementation, and evaluation.

The Lexington-Fayette Urban County Government has provided \$725,000 in funding toward a microtransit pilot. These funds represent the minimum expected expenditure for the pilot term. Lextran may provide additional operating funds as necessary to support a successful launch and to ensure that the pilot is capable of producing meaningful and reliable results. Bidders are expected to develop an operations plan that reflects a clear understanding of the available funding and demonstrates a commitment to maximizing efficiency and value within the resources provided.

Because this is a new service for the agency and the community, Lextran welcomes professional guidance regarding best practices, operational efficiencies, and approaches that will help ensure prudent and effective use of public funds. Lextran also seeks a Contractor who is willing to assist in identifying and pursuing additional external funding opportunities that may support the continuation or expansion of microtransit service beyond the pilot. At present, Lextran does not have sufficient long-term funding allocated to sustain microtransit after the pilot period. Proposers are therefore encouraged to bring forward experience and recommendations related to federal and state grant programs, public/private partnership models, foundation or philanthropic support, academic or research partnerships, and other innovative funding strategies that may strengthen future service viability.

Section 6, Pricing Proposal, contains the required price proposal table. The Cost Proposal shall be all-inclusive, including all applicable federal, state, and local taxes. No additional charges will be permitted except for additional services requested by Lextran. Bidders shall identify any capital infrastructure required to support their proposal, including storage facilities or electric vehicle charging infrastructure, and whether Lextran assistance would be needed to acquire such infrastructure. There shall be no additional reimbursement for travel time or expenses, telephone costs, copying costs, or similar items.

If a bidder recommends alternatives that depart from the Scope of Work, such as changes to service span, fare structure, or coverage area, or if the proposer is unable to provide certain elements, these modifications should be clearly identified as optional components or tasks in the proposal. Bidders agree to maintain pricing as submitted for the duration of the initial contract term. Lextran will not provide payment for any work performed until the associated deliverable has been received and accepted.

Bidders should propose supplying the necessary fleet and maintenance for the duration of this pilot, however, Lextran is offering an option for the bidders to use at least three Lextran vehicles and maintenance for the pilot. More information about fleet and proposal requirements under each model can be found in Section 2.6.

Lextran is seeking four components for the pilot:

- A. Microtransit Service Operations
- B. Fleet
- C. On-Demand Transit Technology
- D. Customer Support

2.2. SERVICE SPAN

Lextran proposes the following service span:

Weekdays	6:00 am	8:00 pm
Saturdays	6:00 am	8:00 pm
Sundays & Holidays	6:00 am	8:00 pm

The Contractor shall be prepared to operate the Microtransit Pilot Program during the above span of service on all days the service is scheduled, consistent with the recommended span in the Lextran Microtransit Feasibility Study. Any modification to this span will be communicated in writing by Lextran and reflected in mutually agreed operating plans.

2.3. SERVICE AREA

The initial service area will follow the findings of the Microtransit Feasibility Study that found Zone 1, Northwest (pg.46) as the most appropriate zone to test microtransit in Lexington. Contractors are welcome to propose reasonable adjustments to the Northwest zone based on their analysis of Lexington and collaborate with Lextran on service boundary adjustments before and during the pilot.

The zone covers an area that has a balanced mix of residential and employment activity with strong paratransit trip density. There are major generators including multiple grocery stores and adjacent shopping centers, various healthcare facilities, and light manufacturing and warehouse employment along Leestown, Mercer and Georgetown roads. The zone covers 9.9 square miles and is an area that continues to see growth in housing density and business in Lexington. It was selected for its balance between moderate cost estimates and ridership projections.

The Zone 1 – Northwest service area is generally defined as shown in Figure 14 (pg.46) of the Lextran Microtransit Feasibility Study (August 2025). The Contractor shall operate service only within the defined zone unless otherwise authorized in writing by Lextran. Lextran reserves the right to adjust the zone boundaries based on observed demand, performance, and community feedback during the pilot.

[Please click here to be redirected to the remix map included in the Microtransit Feasibility Study.](#)

2.4. SERVICE CHARACTERISTICS

Lextran anticipates the initial deployment of microtransit to have the following characteristics:

- Operate curb-to-curb under an anywhere-to-anywhere model with operational efficiencies including curb-to-curb service for customers with mobility devices such as wheelchairs, allowable maximum walk distances, established hubs, and virtual bus stop options.
- Allow and encourage shared rides, and transferring to fixed-route services.
- Maintain an agreed upon service minimum in the service area, at all times.
- Allow bookings via mobile app, web, and phone call.
- Provide predictable pickup windows, with the initial wait time target of 20 minutes, on average, with a maximum wait time of 40 minutes.

The Contractor shall design service parameters (including walk distances to virtual stops, use of transfer hubs, and vehicle assignments) to support efficient shared rides while maintaining the service quality standards described in Section 2.8.

The Contractor shall propose vehicle blocking and run schedules that efficiently utilize the two (2) in-service vehicles (and the spare when needed) while meeting the operating hours and performance standards defined in this Scope of Services.

2.5. FARE STRUCTURE

Microtransit service fares shall be aligned with the recommendations of the Lextran Microtransit Feasibility Study and Lextran's system-wide fare policy. The Lextran Board of Directors shall establish the Base Microtransit Fare in early 2026. The following fare structure shall apply to the pilot:

- **Base Microtransit Fare:** A flat fare per one-way trip for the general public.
- **Transfers:** Riders shall be allowed a free transfer from microtransit to Lextran fixed-route service, and from fixed-route to microtransit, within Lextran's standard transfer time window. The Contractor's technology platform and fare collection approach must support issuance and validation of transfers.
- **Payment Methods:** Riders shall be able to pay fares using methods defined in Section 2.6.3, including, at minimum mobile/credit card payment options compatible with Lextran policy.

- **Discount Eligibility:** Lextran does not plan to offer discounted fares for eligible populations (e.g., seniors, riders with disabilities, low-income riders) but may choose to implement a variable fare structure in the future. The Contractor shall implement any discount programs specified by Lextran within a mutually agreed timeline and shall clearly communicate applicable fares to riders.
- **Fare Policy Changes:** Lextran reserves the right to change microtransit fares, discounts, and transfer rules during the contract term, including for purposes of demand management and equity. The Contractor shall implement such changes within a mutually agreed timeline and shall clearly communicate applicable fares to riders. The fare amounts shall not be changed by the Contractor except with express written communication from Lextran.

Bidders are encouraged to address how they propose to manage fare acceptance for riders without access to credit or debit cards or other electronic payment methods.

2.6. VEHICLE REQUIREMENTS

Contractors should include a fleet plan in their proposal that details the number, type, and necessary equipment provided to complete the pilot. In addition, contractors are encouraged to include an option in their proposal that uses Lextran fleet and maintenance.

Contractor Provided Fleet

Contractor provides the primary fleet for the Microtransit Pilot Program, including vehicle maintenance, insurance, and other regulatory requirements. Bidders must provide a Fleet Plan, including:

- Number of vehicles dedicated for daily service.
- Number of spare vehicles for use when daily service vehicles are temporarily out of service for preventive maintenance or other short-term issues.
- Plan to ensure ADA compliance, particularly for riders using mobility devices such as wheelchairs, and ensure that wait times, travel times, hours of service, and fares are comparable for all riders.

Contractor will perform all scheduled and unscheduled mechanical maintenance, inspections, and repairs on Contractor-owned vehicles.

The Contractor is responsible for conducting and documenting required pre-trip and post-trip inspections (including DVIRs) and promptly reporting any significant defects or safety concerns that may lead to extended or unplanned vehicle maintenance or repairs.

The Contractor shall ensure vehicles are cleaned, fueled, and ready for service each day and shall be responsible for interior and routine exterior cleanliness.

Bidders must provide a Vehicle Maintenance and Inspection Plan including:

- Preventive maintenance schedule, mechanic qualifications, etc.
- If sub-contracting vehicle maintenance, establish how Contractor will ensure that microtransit vehicles are prioritized to guarantee that minimum service standards (including available spare vehicles) are met every day.
- Secure fleet storage and maintenance location(s), including ownership status (e.g. own/lease/other). If leased, property access must be for a period greater than or equal to the Microtransit Pilot Project initial term before final contract can be signed.

Lextran will be responsible for branding and wrapping of the vehicles, regardless of ownership. The contractor will be responsible for any and all on-board technology, as outlined in Section 2.8.

Option: Lextran Provided Fleet

Lextran will provide the primary fleet for the Microtransit Pilot Program. The fleet will consist of:

- Two (2) dedicated Ford Transit vans in daily service;
- One (1) additional Ford Transit van as a spare vehicle; and

- Additional Lextran vehicles may be made available by Lextran, at its sole discretion, as temporary replacements in the event of extended vehicle downtime or service expansion.

All proposed Lextran vehicles are Wheelchair Accessible Vehicles (WAVs) to ensure that wait times, travel times, hours of service, and fares for riders requiring WAVs are comparable to those for riders who do not require WAVs, in accordance with ADA regulations.

Lextran will be responsible for branding and wrapping of the vehicles. The contractor will be responsible for any and all on-board technology, as outlined in Section 2.7.

All Lextran vehicles will be stored on-site at Lextran's headquarters at 200 W Loudon Ave.

- Lextran will perform all scheduled and unscheduled mechanical maintenance, inspections, and repairs on Lextran-owned vehicles.
- The Contractor is responsible for conducting and documenting required pre-trip and post-trip inspections (including DVIRs) and promptly reporting any defects or safety concerns to Lextran in accordance with Lextran's maintenance policies.
- The Contractor shall ensure vehicles are cleaned, fueled, and ready for service each day and shall be responsible for interior and routine exterior cleanliness.

2.7. FUEL PURCHASING

Lextran will purchase fuel for the Microtransit Pilot Project via an existing fuel contract, regardless of whether Lextran or the Contractor provides the fleet. Lextran will provide fuel cards for use at specified locations in Lexington, which may not be used for any purpose other than to fuel the assigned vehicle for microtransit service. The Fuel Card Policy, including policy limitations, auditing, and reporting requirements will be included in the final contract.

Contractor shall safeguard Lextran-issued fuel cards against loss, theft, or misuse. Any misuse of fuel cards or fueling privileges by Contractor staff is the responsibility of the Contractor and may be subject to reimbursement or other remedies as determined by Lextran.

2.8. TECHNOLOGY PLATFORM REQUIREMENTS

Rider Booking Tools

The technology must be mobile compatible, including an application for iOS and Android, and also include a web booking portal. Customers must also be able to book a trip through a call-center. The technology must include real-time vehicle tracking for riders, including dynamic arrival estimates. The technology must adhere to accessibility standards. Bookings must allow multiple customers to be booked within the standards of the vehicle or other already accepted trips. The booking platform must also allow customers to identify mobility device needs, such as wheelchair size.

Dispatching and Routing

The technology platform must be able to automate routing and trip batching to maximize efficiency while delivering service within acceptable levels, as measured by pick-up times and trip length. The system must include a manual override capability and capture all manual override requests in reports.

Fare Payment Integration

The technology platform must accept mobile and credit card payments and integrate with Lextran's fixed route system to provide transfers. The proposal should address how the proposer plans to accommodate fare payments and transfers. The technology must also support changes in fare rates and the use of flex rates (should Lextran choose to implement such a rate format during the contract term).

Onboard Vehicle Equipment

The Contractor will be responsible for supplying, operating, and maintaining onboard electronic devices that integrate with the above technology requirements as well as driver communication and data collection purposes.

Data Ownership

All operational data is Lextran property. The technology platform must provide an export tool for historical data, an API for real-time data, NTD-compliant data reporting modules, and real-time performance dashboards. Lextran shall have direct access to these data systems.

2.9. STAFFING & TRAINING

The Contractor is responsible for hiring, training, and retaining a sufficient number of staff to fulfill the service requirements and ensuring that all employees must:

- Hold the appropriate licensing;
- Complete ADA securement training, customer-service training, and safety training; and
- Complete all training, criminal background check, and FTA drug and alcohol testing before being placed into service.

Training

The contractor must detail their training procedures and provide sample training materials in their proposals. The vendor questionnaire (Section 9) provides a location to upload these relevant materials so the documents will not count toward the proposal page limit.

The successful proposer will be expected to provide training procedures and evidence of employee compliance on request for the duration of the contract.

Project Oversight

The contractor must provide a project manager for the entirety of the contract. The project manager must, have the authority to resolve service issues, be knowledgeable about the day-to-day operations, and frequently participate in meetings with Lextran staff. The project manager shall have the authority to make commitments and decisions that are binding to the Contractor and any approved Subcontractors. The project manager is responsible for monitoring and reporting all aspects of the microtransit pilot program, including operations, employee support, and customer service. The project manager must be reasonably available during all hours of service. If, for any reason, the project manager is unreachable, then their designee must be available. Lextran will assign a contract manager as the main point of contact for project coordination. Lextran's contract manager will ensure that regular meetings, reporting, work plans, schedule adherence, and required deliverables are within compliance.

Contractors must detail their plans for dispatching and street supervision in their proposals. Supervision is the responsibility of the contractor and detail should be provided on how the contractor will respond to emergency situations. Continuous operational supervision is required.

2.10. PERFORMANCE STANDARDS & METRICS

Performance Standards

Lextran recognizes that performance standards may require adjustment as the pilot project evolves. Lextran intends to include incentives and disincentives in the final contract, negotiated with the selected contractor, to ensure alignment of contractor performance with Lextran's expectations and community needs. The following initial standards will be applied to microtransit service:

- **On-Time Performance:** Customers should be picked up within 5 minutes of their estimated arrival time that is provided upon trip booking. The target on-time performance is 90%.
- **Average wait time:** The average wait time should be 20 minutes or less, with a maximum wait time of 40 minutes.
- **Missed or excessively late trips:** The contractor shall not miss more than 0.5% of the total accepted trips. A missed trip is defined as a scheduled trip that is not completed because the vehicle did not arrive at its agreed upon origin or did not arrive within the maximum customer wait time of 40 minutes.
- **Travel time:** Maximum on-vehicle trip time to be determined prior to final contract award.
- **Trip denials:** The contractor shall accept 95% of requested trips and should alert Lextran immediately if the demand for service rises to the point where operational adjustments are necessary to meet service expectations.

- Booking abandonment rate: Contractor shall report all trip refusals to Lextran regularly. Reports shall include the reason for abandonment.
- Call center response: The contractor shall answer 98% of calls live.
- Incident Frequency Rate: Rate to be determined prior to final contract award.
- Accident Frequency Rate: Rate to be determined prior to final contract award.
- Net Promoter Score (NPS) or Similar: Method and goal for customer experience to be determined based on collection method.

Key Performance Indicators

In addition to the above service quality metrics, Lextran will monitor the following key performance indicators (KPIs) to assess the viability of continuing and/or expanding microtransit services in Lexington. KPI's will typically be measured on a monthly or annual basis, but on-demand data accessibility is needed for ad hoc data analysis.

- Productivity: Target of at least 2.0 unlinked passenger trips per vehicle revenue hour.
- Cost per Passenger: Reporting of operating cost per passenger trip, with an initial planning benchmark consistent with feasibility study estimates. Lextran may establish formal targets or incentive/disincentive structures in subsequent contract modifications.
- Cost per Hour: Reporting of operating cost per revenue hour, with an initial planning benchmark consistent with feasibility study estimates. Lextran may establish formal targets or incentive/disincentive structures in subsequent contract modifications.
- Trip Denials: Number and percentage of trip requests denied due to insufficient capacity ("seat unavailable"). The Contractor shall work with Lextran to minimize denials through active demand management and scheduling practices.
- Access and Equity: Distribution of trips by time of day, day of week, rider type, and geography within the zone to assess whether the service is meeting identified needs.
- User Data: Number of new, unique, and repeat riders.
- Operator Data: Number of active operators (has driven within previous 30 days). Roster of active staff must be reported monthly.
- Trip Data: Percent of shared rides completed.
- ADA Service Data: Number of trips requiring WAV's and Average Wait Time for trips requiring WAV's.
- Customer Service Data: Number of compliments, complaints, comments received.
- Rider Experience Data: Data collected regarding trip service ratings.

Vehicle Availability

Contractor Provided Fleet:

The Contractor shall guarantee at least 98% daily availability of the assigned in-service fleet (excluding vehicles removed from service for planned maintenance), measured as the percentage of scheduled vehicle blocks that depart the garage with an operable vehicle.

Option: Lextran Provided Fleet:

Lextran shall provide at least 98% daily availability of the assigned in-service fleet (excluding vehicles removed from service by Lextran for planned maintenance), measured as the percentage of scheduled vehicle blocks that depart the garage with an operable vehicle.

2.11. REPORTING REQUIREMENTS

The contractor shall provide Lextran with access to its reporting system, as well as raw data exporting as described in the technology section. In addition, the contractor shall submit the following reports, which are subject to refinement as needed:

Daily Reporting Requirements:

- Trips completed, trips cancelled, customer no-shows, missed or excessively late trips, and trip denials.
- On-time performance and wait times
- Vehicle assignments and availability, if Lextran provides vehicles - all pre-trip checklists and DVIR documents

Monthly Reporting Requirements:

- Vehicle revenue miles and hours
- Passenger trips by rider type
- National Transit Database (NTD) required reports
- Demand Summary (origin/destination, time of use, boardings per revenue hour)
- Revenue summary (total + breakdown if discounts are provided)
- Booking abandonment rates
- Incidents, accidents, complaints
- Road calls, vehicle maintenance

Quarterly and Annual Reporting Requirements:

- Ridership trends and analyses
- Recommendations for service adjustments
- Technology performance summaries
- Call-center performance summaries
- FTA Drug & Alcohol reporting

2.12. COMPLIANCE REQUIREMENTS

The Contractor must comply with the following regulatory and organizational requirements:

- ADA
- FTA Drug and Alcohol
- Title VI and LEP
- State, federal, and local regulations
- Lextran policies and procedures

2.13. PASSENGER RESPONSIBILITIES

Microtransit passengers are responsible for being at the designated pick-up location, ready to travel, at their promised pick-up time. Passengers shall be allowed five (5) minutes to board the microtransit vehicle measured from the time the vehicle actually arrived at the location, or from when the vehicle was scheduled to arrive at the location, whichever occurred later, and the driver notifies the passenger of the vehicle's arrival.

2.14. REQUIRED POLICIES

The Contractor must maintain and enforce specific policies regarding safety, appearance, and operations including, but not limited to:

- **Trip Rejection:** Contractor must provide their policy and procedure for trip rejection in the event that reservations exceed the service capability threshold.
- **Inclement Weather:** Drivers must inform Lextran of driving conditions. Lextran retains authority to cancel service. Contractor is not reimbursed for hours cancelled in advance due to weather.
- **Emergency Response:** Contractor must respond in person to any emergency or accident as requested by Lextran. Phone numbers for the Project Manager and key supervisory staff must be available to Lextran on a 24-hour basis.
- **Driver Turnover:** Contractor must demonstrate a recruitment and hiring program to minimize turnover, including reasonable wages and a supportive work environment.

- Dress Code: Drivers must wear a professional uniform similar to fixed-route drivers, including high-visibility vests. A sample dress code must be submitted for approval.
- Personnel Policies: Policies regarding Equal Employment, Title VI, FTA Drug and Alcohol, DOT, and Worker's Compensation must be displayed in conspicuous locations.
- Child Restraint System and Booster Seats: Compliance with KRS 189.125(3) is required.

2.15. PROPOSED DELIVERABLES

The contractor's proposal shall include a comprehensive Microtransit Implementation Plan detailing how the contractor aims to plan, launch, and evaluate the microtransit pilot project in coordination with Lextran. The Microtransit Implementation Plan shall include the following components:

1. Microtransit Service Plan (Section 2.1 – 2.4)
2. Fleet Plan including Maintenance and Inspections (Section 2.6)
3. Technology Plan (Section 2.8)
4. Fare Collection Plan including fare acceptance for riders without access electronic payment methods (Section 2.5)
5. Staffing Plan including recruitment and retention strategies, onboarding schedules, key staff (e.g. Project Manager, Supervisor), and employees needed (Section 2.9)
6. Employee Training Plan including curriculum, sample materials, and re-training schedule (Section 2.9)
7. Customer Service Plan including performance standards
8. Outreach & Engagement plan, including earned and purchased marketing strategies (with budget), and coordination plan with Lextran Marketing Department and contracted firm(s).
9. Service Evaluation Plan including evaluation scope and frequencies (Section 2.10)
10. Pilot Launch Plan including the anticipated project schedule, any testing periods, increased staffing expectations, etc.

Use of subcontractors must be disclosed in the submitted proposal, along with information about the subcontractor, their role in the project, and the bidders oversight plan.

2.16. CONTRACT TERM

The Microtransit Pilot Program is anticipated to operate for an initial pilot period of twelve (12) to eighteen (18) months from the service start date ("Initial Pilot Term") depending on available funding. The specific start date will be established in the resulting contract.

After twelve (12) months of continuous service, and contingent upon satisfactory performance as determined by Lextran in its sole discretion, the selected Contractor shall have the right to enter into exclusive negotiations with Lextran for an additional service term not to exceed six (6) months ("Exclusive Negotiation Period"). Nothing in this provision obligates Lextran to extend the contract; it provides only a right to negotiate exclusively with the incumbent Contractor for the defined period.

Following completion of the Initial Pilot Term, Lextran may, at its sole option, exercise additional contract extensions such that the total cumulative contract term (including the pilot period and all exercised option periods) does not exceed five (5) years. Any option year(s) will be exercised in writing by Lextran and may be subject to revised scope, performance standards, and compensation structures based on the results of the pilot, funding availability, and Board direction.

Continuation of service beyond the Initial Pilot Term is expressly contingent upon:

- A. Lextran's determination that the microtransit service is meeting or making satisfactory progress toward the service goals and KPIs identified in this Scope of Services;
- B. Sustainable funding availability; and
- C. Successful negotiation of any revised terms or pricing that may be required.

3. COST

3.1. COST

Section 6 of this RFP document contains the price proposal table that must be filled out by each proposer to be considered responsive. Cost Proposal shall include all applicable federal, state, and local taxes and must be all-inclusive of project expenses, as no additional charges shall be allowed, except for additional services as requested by Lextran, if any. Please indicate any capital infrastructure necessary for the proposed Technical Project Approach such as storage facilities or electric vehicle charging infrastructure and if Lextran will need to assist in acquiring this infrastructure. There shall be no additional reimbursement for travel time or expenses, telephone costs, copying costs, etc.

If the Proposer is recommending a Technical Project Approach that deviates from the Scope of Work (such as recommended changes to the hours of operation, fare structure, or coverage area, or if there are elements the Proposer cannot provide), please indicate the changes or modifications as optional elements or tasks on the Cost Proposal.

If the fare structure deviates from the Scope of Work (such as recommending a distanced based fare structure, increased fares, reduced fares to other populations, or providing additional fare options), please estimate the revenues from the recommended fare structure in the Cost Proposal.

Lextran will not pay for any work performed as part of any contracts awarded as a result of this RFP until it has received and accepted each deliverable.

The proposal shall document the costs for each aspect of this procurement, broken down, at a minimum, by each of the deliverables listed in this RFP.

4. GENERAL TERMS AND CONDITIONS

4.1. GENERAL TERMS AND CONDITIONS

Any contract awarded as a result of this RFP is expected to start on TBD immediately following the expiration of the current contract.

In case of breach of duties or default, Lextran may, with good cause, terminate the contract upon thirty (30) days written notice prior to termination.

Lextran may terminate the contract at anytime upon sixty (60) days written notice prior to termination.

Terms of payment will be thirty (30) days after receipt of invoice. Lextran will not pay for a service until it has been performed or a good until it has been received. Lextran is tax exempt and will provide Certificate of Exemption to the awarded firm.

The term of any contract awarded as a result of this RFP shall be for an initial pilot period of twelve (12) to eighteen (18) months from the service start date (“Initial Pilot Term”) depending on available funding.

Any changes to the term or fees of the contract must be approved by Lextran in the form of a change order.

Lextran reserves the right to require of each/any Proposer, information regarding financial responsibility and viability or such other information as Lextran determines is necessary to ascertain whether a proposal is in fact a responsible proposal.

Proposers should note that the successful vendor must show no exclusions reported in SAM.GOV in order to be officially awarded any contract funded by federal dollars.

4.2. SAFETY REQUIREMENTS FOR LEXTRAN PREMISES

Awarded contractors must abide by all site safety regulations while on Lextran grounds, including but not limited to:

- Immediately checking in with the appropriate Lextran representative upon entering the site.
- A strictly enforced 5 mph speed limit.
- High visibility vests that have contractors company name and/or logo on the back for immediate identification.
- No smoking anywhere on site.
- No access to mechanics bays without proper clearance and personal protective equipment.

5. PROPOSAL CONTENT AND SUBMISSION REQUIREMENTS

5.1. SUBMISSION REQUIREMENTS

Incomplete proposals may render the proposal non-responsive.

There is a **fifty (50) page limit** for all proposal documents submitted, excluding the required forms and audited financial documents. Proposers should keep their submissions at or below this limit, or the proposal may be deemed non-responsive.

Lextran requests that proposals be concise, clearly addressing the evaluation criteria.

A copy of this RFP should NOT be included as part of the proposal. This RFP document will become part of the contract. Any edited versions of the RFP included in a proposal will not be accepted. This RFP/solicitation may only be modified by formal addendum issued by Lextran.

Proposals must be submitted via Lextran's eProcurement Portal.

Proposals must be received before 2:00 pm eastern time on Friday, February 13, 2026.

The proposer shall supply the following in their proposal:

- **Authorized Letter**: The proposal must be signed by an employee of the proposers company with the authorization to submit a proposal on the company's behalf.
- **Scope of Services Requirements**: Proposers must review in detail the requirements listed in the scope of services for the proposal to remain compliant.
 - Service Span
 - Service Area
 - Fare Structure
 - Vehicle Requirements
 - Fuel Purchasing
 - Technology Platform Requirements
 - Staffing & Training
 - Performance Standards & Metrics
 - Reporting Requirements
 - Compliance Requirements
 - Division of Responsibilities
 - Passenger Responsibilities
 - Required Policies
 - Proposed Deliverables
- **Microtransit Service Plan** (Section 2.1 – 2.4): The service plan will include provisions for operating the service 365 days per year a minimum of 14 hours per day
- **Fleet Plan** including Maintenance and Inspections (Section 2.6)
- **Technology Plan** (Section 2.8)
- **Fare Collection Plan** including fare acceptance for riders without access electronic payment methods (Section 2.5)
- **Staffing Plan** including recruitment and retention strategies, onboarding schedules, key staff (e.g. Project Manager, Supervisor), and employees needed (Section 2.9)
- **Employee Training Plan** including curriculum, sample materials, and re-training schedule (Section 2.9)
- **Customer Service Plan** including performance standards
- **Outreach & Engagement Plan**, including earned and purchased marketing strategies (with budget), and coordination plan with Lextran Marketing Department and contracted firm(s).
- **Service Evaluation Plan** including evaluation scope and frequencies (Section 2.10)

- **Pilot Launch Plan** including the anticipated project schedule, any testing periods, increased staffing expectations, etc.
- **Insurance:** Proposers must also be adequately insured to perform this work and provide documentation of coverage, including certification of insurance evidence. The successful proposer must also be willing to provide Lextran with proof of coverage on an on-going basis.
- **Capacity:** Proposers must show they have the personnel and equipment capacity to hold a contract with Lextran. This section should include key personnel assigned to this project and include relevant resumes and/or experience. This section should NOT include sales materials, promotional offerings, or the like.
- **References:** Three (3) references including company name and address, contact person, phone numbers, and email addresses. References shall be able to speak to the quality of the services that have been provided. References shall be for clients of a similar nature to Lextran.
- **Pricing Proposals:** Two (2) different pricing proposals to reflect Lextran providing service vehicles versus the contractor providing the service vehicles.
- **The enclosed forms as listed below:**
 - Certification of Restrictions on Lobbying
 - Certification Regarding Debarment, Suspension and Other Ineligibility
 - Non-Collusion Affidavit
 - Certificate of Procurement Integrity
 - Financial Capacity Form
 - Affidavit of Compliance-DBE (If Applicable)
 - Buy America Compliance

Redacted Proposals

Lextran does not require the submission of redacted proposals along with the original proposal file, however it is recommended. Lextran is subject to open records requests, and therefore may be required to present a proposal as part of such a request. Lextran purchasing personnel will always strive to protect all proprietary information of our vendors, however, procurement staff may not be aware of what may be considered a "trade secret". Providing a redacted proposal will help protect vendors trade secrets.

If a proposer does not wish to provide a separate, redacted file, they are more than welcome to mark any such information as "confidential" so those pages may be removed from an open records request file. Please keep in mind that only truly proprietary information can be marked as confidential, and an entire proposal document may not be marked as proprietary. Lextran has a responsibility to maintain public trust and transparency, so any information that is subject to KRS 61.870 through 61.884 must be provided on request.

5.2. CAPACITY

The proposer shall demonstrate they have sufficient capacity to handle the Lextran account. This includes financial, personnel, and equipment/facility capacity. Proposers must also be adequately insured to perform this work and provide documentation of coverage. The successful proposer must be willing to provide Lextran with proof of coverage on an on-going basis.

Financial capacity can be demonstrated by providing the financial capacity form, completed by a financial institution representative, and/or a copy of the firm's audited financials. **Please note that all financial information is treated as proprietary information and will not be subject to public records.**

Personnel capacity can be demonstrated by documenting the firm has a sufficient number of employees to handle the Lextran account and that those employees have the proper training/experience and certifications to do the work.

5.3. EXPERIENCE AND REFERENCES

The proposer shall document their previous experience in performing the tasks outlined in this RFP. Proposers should call out any work done for other transit agencies or customers similar in nature to Lextran. Proposers will also document the qualifications of the firm to provide this work, including the qualifications of any specific individuals assigned to the project.

Proposers will provide a minimum of three (3) references that can speak directly to the quality of work done by the proposer. References must include company name, contact name, phone number (with extension where applicable), and email address. Reference should be notified in advance to inform them they will be contacted by Lextran personnel.

Lextran will email a standard reference form to all references, therefore it is imperative that email addresses are up-to-date and accurately entered to avoid unanswered reference requests.

6. PRICING PROPOSAL

The proposal shall document the costs for each aspect of this procurement, broken down, at a minimum, by each of the deliverables listed in this RFP.

Lextran will not pay for any work performed as part of any contracts awarded as a result of this RFP until it has received and accepted each deliverable.

CONTRACTOR SUPPLIED VEHICLES

Line Item	Description	Unit of Measure	Unit Cost	Notes
Cost Proposal Contractor Supplied Vehicles				
1	Start-up and Mobilization	each		
3	Cost per Vehicle Revenue Hour	each		
2	Total Cost for 12-month Pilot (assume 10,220 Vehicle Revenue Hours + Startup)	each		
Options:				
8	Corner-to-corner cost reduction	each		For cost reduction enter a negative number
9	Additional Vehicles In-Service - Cost per Vehicle Revenue Hour	each		For cost reduction enter a negative number
10	Extended Service Hours - Cost per Vehicle Revenue Hour	each		For cost reduction enter a negative number
11	Option to extend Pilot to 18 months	each		For cost reduction enter a negative number
12	Option 4 cost reduction or addition	each		For cost reduction enter a negative number
13	Option 5 cost reduction or addition	each		For cost reduction enter a negative number
14	Option 6 cost reduction or addition	each		For cost reduction enter a negative number
15	Option 7 cost reduction or addition	each		For cost reduction enter a negative number
16	Option 8 cost reduction or addition	each		

OPTION - LEXTRAN SUPPLIED VEHICLES

Line Item	Description	Unit of Measure	Unit Cost	Notes
Cost Proposal Lextran Supplied Vehicles				
1	Start-up and Mobilization	each		
3	Cost per Vehicle Revenue Hour	each		
2	Total Cost for 12-month Pilot (assume 10,220 Vehicle Revenue Hours + Startup)	each		
Options:				
8	Corner-to-corner cost reduction	each		For cost reduction enter a negative number
9	Additional Vehicles In-Service - Cost per Vehicle Revenue Hour	each		For cost reduction enter a negative number
10	Extended Service Hours - Cost per Vehicle Revenue Hour	each		For cost reduction enter a negative number
11	Option to extend Pilot to 18 months	each		For cost reduction enter a negative number
12	Option 4 cost reduction or addition	each		For cost reduction enter a negative number
13	Option 5 cost reduction or addition	each		For cost reduction enter a negative number
14	Option 6 cost reduction or addition	each		For cost reduction enter a negative number
15	Option 7 cost reduction or addition	each		For cost reduction enter a negative number
16	Option 8 cost reduction or addition	each		

7. EVALUATION PHASES

EVALUATION DISCLAIMER:

This document is a Request for Proposals (RFP) and is a “best value” procurement and not a “lowest cost” procurement. Proposers acknowledge that the selection of the winning Proposer is inherently subjective and that Lextran reserves the right to reject any and all submissions at its discretion.

Proposals should be concise and should address the evaluation criteria and information requested. Proposals containing generalized marketing materials are discouraged and may result in a lower evaluation score.

7.1. Phase 1

No.	Evaluation Criteria	Scoring Method	Weight (Points)
1.	Project Approach Does the proposer describe their work plan and project schedule? Is the project plan of sufficient quality and comprehensive? Are they responsive to the scope of work?	Points Based	35 (35% of Total)
2.	Project Cost Is the proposed cost of operations in line with industry standard?	Points Based	25 (25% of Total)
3.	Operations Team Composition & Qualifications Does the proposer identify their core operations team? Does the team appear to be qualified to complete the requested services?	Points Based	20 (20% of Total)
4.	Data Collection, Reporting Methods, Quality Control & Performance Monitoring Does the proposer describe their methods for collecting data and how that data will be reported to Lextran? Does the proposer provide concrete methods to enforce quality control and monitor performance?	Points Based	20 (20% of Total)

7.2. Phase 2

No.	Evaluation Criteria	Scoring Method	Weight (Points)
1.	Professionalism and Demeanor Did the interview clarify all questions regarding the vendors proposal that the committee asked for? Was the interview productive and informative? Did the interviewee conduct themselves in a professional manner?	Points Based	25 (50% of Total)
2.	Demonstration of Capacity Did the interview convey that the vendor has the capability and understanding to carry out the microtransit pilot program and subsequent operations while meeting Lextran's FTA and state mandated standards?	Points Based	25 (50% of Total)

8. STATE AND FEDERAL PROVISIONS

8.1. OPEN RECORDS NOTIFICATION

All information appearing within the proposal is subject to public inspection as per the Kentucky Open Records Act, KRS 61.870. Any proprietary information eligible to be excluded from an open records request must be clearly marked as such on each individual page on which proprietary information appears. Proposers may not make a blanket or all-inclusive confidentiality/proprietary statement. For the purpose of determining an eligible exclusion, KRS 61.878 describes proprietary information in the following manner: "Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records".

8.2. GOVERNING LAW

All contractual agreements shall be subject to, governed by, and construed according to the laws of the Commonwealth of Kentucky.

8.3. REQUIRED FEDERAL CLAUSES

The Transit Authority of Lexington-Fayette Urban County Government (Lextran) is a recipient of federal funds and is mandated to follow specific guidelines in the procurement of goods and services. The following clauses shall be incorporated by reference into any contract that results from this solicitation.

Definitions used herein:

- The terms "respondent, bidder, proposer, and contractor" mean the offeror or vendor.
- The terms "the Authority" and "recipient" (as in recipient of FTA funds) mean the Transit Authority of Lexington-Fayette Urban County Government (Lextran).
- The term "USDOT" means the United States Department of Transportation.
- The term "FTA" means the Federal Transportation Administration.

8.4. ACCESS TO THIRD PARTY RECORDS AND REPORTS

- (1) Record Retention. The Contractor will retain and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.
- (2) Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts, and reports required under this Contract for a period of not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims, or exceptions related thereto.
- (3) Access to Records. The Contractor agrees to provide sufficient access to the Federal Transit Administration (FTA), the U.S. Secretary of Transportation or the Secretary's duly authorized representatives, the Comptroller General of the United States, the Comptroller General's duly authorized representatives, and the duly authorized representatives of Lextran to inspect and audit records and information related to the performance of this Contract as reasonably may be required.
- (4) Access to the Sites of Performance. The Contractor agrees to permit those individuals listed above access to the sites of performance under this Contract as reasonably may be required.

8.5. ADA ACCESSIBILITY

Facilities to be used in public transportation service must comply with the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.; DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37; and Joint Access Board/DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38. Notably, DOT incorporated by reference into Appendix A of its regulations at 49 C.F.R. part 37 the Access Board's "Americans with Disabilities Act Accessibility Guidelines" (ADAAG), revised July 2004, which include accessibility guidelines for buildings and facilities. DOT also added specific provisions to Appendix A of 49 C.F.R. part 37 modifying the ADAAG with the result that buildings and facilities must comply with both the ADAAG and the DOT amendments.

8.6. BREACHES AND DISPUTE RESOLUTION

Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of Lextran's General Manager. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the General Manager. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the General Manager shall be binding upon the Contractor, and the Contractor shall abide by the decision.

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

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

Remedies- Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between Lextran and the Contractor arising out of or relating to this agreement or its breach will be decided in a court of competent jurisdiction within Kentucky.

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

This clause applies to all contracts in excess of \$25,000.

8.7. BUILD AMERICA/BUY AMERICA

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR § 200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7.

Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. § 5323(u) and 49 C.F.R. § 661.11. Domestic preferences for procurements.

Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and FTA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

The bidder or offeror must submit to the Agency the appropriate Buy America certification. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive. For more information, please see the FTA's Buy America webpage at: <https://www.transit.dot.gov/buyamerica>

8.8. CIVIL RIGHTS REQUIREMENTS

The following Federal Civil Rights laws and regulations apply to all contracts.

The Contractor and any subcontractor agree to comply with all the requirements prohibiting discrimination on the basis of race, color, or national origin of the Title VI of the Civil Rights Act of 1964, as amended 52 U.S.C 2000d, and U.S. DOT regulation "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of the Title VI of the Civil rights Act," 49 C.F. R. Part 21 and any implementing requirement FTA may issue.

A. Federal Equal Employment Opportunity (EEO) Requirements. These include, but are not limited to:

1. Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national

origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.

2. **Prohibition against Employment Discrimination.** Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.
- B. **Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.
- C. **Nondiscrimination on the Basis of Age.** The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.
- D. **Federal Protections for Individuals with Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Civil Rights and Equal Opportunity

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

- A. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- B. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

- C. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621- 634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., 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, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- D. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- E. **Promoting Free Speech and Religious Liberty.** The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

8.9. CLEAN AIR REQUIREMENTS

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to Lextran and understands and agrees that Lextran will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor agrees it will not use any violating facilities.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

The Clean Air requirements apply to all contracts exceeding \$150,000, including indefinite quantities where the amount is expected to exceed \$150,000 in any year. The Clean Air requirements flow down to all subcontracts at every tier.

8.10. CLEAN WATER REQUIREMENTS

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to Lextran and understands and agrees that Lextran will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor agrees it will not use any violating facilities.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

The Clean Water requirements apply to all contracts exceeding \$150,000, including indefinite quantities where the amount is expected to exceed \$150,000 in any year. The Clean Water requirements flow down to all subcontracts at every tier.

8.11. CONFLICT OF INTEREST

The contractor is required to have a written standards of conduct to encompass both personal and organizational conflicts of interest and defines them as follows:

Personal Conflicts of Interest. The Recipient’s code or standards of conduct shall prohibit the Recipient’s employees, officers, board members or agents from participating in the selection, award or administration of a third-party contract or sub-agreement supported by Federal Funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when any of the following parties has a financial or other interest in the entity selected for award: (a) an employee, officer, board member or agent; (b) any member of his or her immediate family; (c) his or her partner; (d) an organization that employs, or intends to employ, any of the above.

Organizational Conflicts of Interest. The Recipient’s code or standard of conduct must include procedures for identifying and preventing real and apparent organizational conflicts of interest. An organizational conflict of interest exists when the nature of the work to be performed under a proposed third-party contract or sub-agreement may, without some restrictions on future

activities, result in an unfair competitive advantage to the third-party contractor or sub-recipient or impair its objectivity in performing the contract work.

49 CCFR § 18.36©(v) and 49 CFR § 19.43 prohibit organizational conflicts of interest as restrictive competition. Section 19.43 further states as follows: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open, and free competition. The recipient [[Page 167]] shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bid and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality, and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient. Any and all bids or offers may be rejected when it is in the recipient's interest to do so.

8.12. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. §§ 3701 – 3708)

- A. Applicability: This requirement applies to all FTA grant and cooperative agreement programs.
- B. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.
- C. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- D. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- E. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

Compliance with the Contract Work Hours and Safety Standards Act.

- 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 (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), 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. The agency 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 paragraph (1) through (4) 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.”

8.13. DISADVANTAGED BUSINESS ENTERPRISE (DBE) – NO CONTRACT GOAL

(a) OVERVIEW

It is the policy of Lextran and the United States Department of Transportation (DOT) that Disadvantaged Business Enterprises (DBEs), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts. It is also the policy of Lextran to:

- 1 Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- 2 Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- 3 Ensure that the DBE program is narrowly tailored in accordance with applicable law;
- 4 Ensure that only firms that fully meet 49 C.F.R. part 26 eligibility standards are permitted to participate as DBEs;
- 5 Help remove barriers to the participation of DBEs in DOT-assisted contracts;
- 6 To promote the use of DBEs in all types of federally assisted contracts and procurement activities; and
- 7 Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

This contract is subject to 49 C.F.R. part 26. Therefore, the Contractor must satisfy the requirements for DBE participation as set forth herein. These requirements are in addition to all other equal opportunity employment requirements of this Contract. Lextran shall make all determinations with regard to whether or not a bidder/proposer is in compliance with the requirements stated herein. In assessing compliance, Lextran may consider during its review of the bidder/proposer’s submission package, the bidder/proposer’s documented history of non-compliance with DBE requirements on previous contracts with Lextran.

(b) CONTRACT ASSURANCE

The contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Lextran deems appropriate, which may include, but is not limited to:

- Withholding monthly progress payments;
- Assessing sanctions;
- Liquidated damages; and/or
- Disqualifying the contractor from future bidding as non-responsible.

Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph.

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor’s receipt of payment for that work from Lextran. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor’s work by Lextran and contractor’s receipt of the partial retainage payment related to the subcontractor’s work.

(c) DBE PARTICIPATION REQUIREMENT

For the purpose of this Contract, Lextran will accept only DBEs who are certified at the time of bid opening or proposal evaluation by the Commonwealth of Kentucky.

(d) DBE PARTICIPATION GOAL

There is no specific contractual DBE goal for this procurement. The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance. While there are no contractual requirements for the successful contractor to utilize the services of a DBE, Lextran strongly encourages the contractor to do so if possible.

(e) COUNTING DBE PARTICIPATION

The bidder/proposer may count toward its DBE utilization only expenditures to firms which are currently certified by the KY UCP and which perform a commercially useful function. A firm is considered to perform a commercially useful function when it is responsible for the performance of a distinct element of the work and carries out its responsibilities by actually performing, managing and supervising the work involved.

To determine whether a firm is performing a commercially useful function, the DBE Officer will evaluate the amount of work subcontracted, industry practices and other relevant factors. The DBE Officer reserves the right to deny or limit DBE credit to the bidder/proposer where any DBE is found to be engaged in substantial pass-through activities with others.

DBE participation shall be counted toward the DBE goal in the contract as follows:

- A. Once a DBE is determined to be eligible in accordance with these rules, the total dollar value of the contract awarded to the DBE may be counted toward the DBE goal except as indicated below.
- B. A bidder/proposer may count toward its DBE goal that portion of the total dollar value of a contract with an eligible joint venture equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces.
- C. Consistent with normal industry practices, a DBE may enter into subcontracts. If a DBE subcontracts more than thirty percent (30%) or a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the DBE shall be presumed not to be performing a commercially useful function. Evidence may be presented by the bidder/proposer involved to rebut this presumption.
- D. When a DBE subcontracts a part of the work under the contract to another firm, the value of the subcontracted work may only be counted towards the DBE goal if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count towards the DBE goal.
- E. The bidder/proposer may count one hundred percent (100%) of its expenditures for materials and supplies required under the contract and which are obtained from a DBE manufacturer towards the DBE goal. The bidder may count sixty percent (60%) of its expenditures for material and supplies under the contract obtained from a DBE regular dealer towards its DBE goal. The terms "manufacturer" and "regular dealer" are defined in 49 C.F.R. Part 26.55(e)(1)(ii) and (2)(ii).
- F. The bidder/proposer may count towards its DBE goal expenditures to DBEs which are not manufacturers or regular dealers, such as fees or commissions charged for services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies and transportation charges as set forth in 49 C.F.R. Part 26. However, the DBE Officer must determine the fee or charge to be reasonable and not excessive as compared with fees or charges customarily allowed for similar services.

The bidder/proposer must use good business judgment when negotiating with subcontractors and take a DBE's price and capabilities into consideration. The fact that there may be some additional costs involved in finding and using DBE firms is not sufficient reason to fail to utilize a DBE, as long as such costs are reasonable.

(f) REPORTING

Lextran shall monitor the Contractor's DBE utilization during the life of the contract. In the event this procurement exceeds ninety (90) days, it will be the responsibility of the Contractor to submit quarterly written reports to Lextran that summarize the total DBE value for this Contract. These reports shall provide the following details:

- DBE utilization established for the Contract.
- Total value of expenditures with DBE firms for the quarter.
- The value of expenditures with each DBE firm for the quarter by race and gender.
- Total value of expenditures with DBE firms from inception of the Contract; and
- The value of expenditures with each DBE firm from the inception of the Contract by race and gender.

Reports and other correspondence must be submitted to the DBE Compliance Officer with copies provided to the Purchasing department. Reports shall continue to be submitted quarterly until final payment is issued or until DBE participation is completed.

The Contractor shall permit Lextran to have access to necessary records to examine information as Lextran deems appropriate for the purpose of investigating and determining compliance with this provision, including, but not limited to, records of expenditures, invoices, and contracts between the Contractor and other DBE parties entered into during the life of the Contract. The authorized representatives of Lextran, the U.S. Department of Transportation, the Comptroller General of the United States, or their designees shall be allowed to inspect and audit all data and records of the Contractor relating to its performance under the DBE Participation provision of this Contract. All data and records pertaining to DBEs shall be maintained for at least three (3) years from the termination or completion of this Contract.

(g) DBE PROGRAM DEFINITIONS

A disadvantaged business enterprise is a business:

- A. Which is at least 51% owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

- B. Whose management and daily business operation are controlled by one or more of the socially and economically disadvantaged individuals who own it. OR
- C. Which is at least 51% owned by one or more women individuals, or in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more women individuals; and
- D. Whose management and daily business operations are controlled by one or more women individuals who own it.

“Small business concern” means a small business as defined by section 3 of the Small Business Act and Appendix B – Section 106(c) Determination of Business Size.

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

- A. “Black Americans” includes persons having origins in any of the Black racial groups of Africa.
- B. “Hispanic Americans” includes persons of Mexican, Puerto Rican, Cuban, Central or South America, or other Spanish or Portuguese culture or origin, regardless of race.
- C. “Native Americans” includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.
- D. “Asian Americans” includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, U.S. Trust Territories of the Pacific, and the Northern Marianas.
- E. “Asian Indian Americans” includes persons whose origins are from India, Pakistan, and Bangladesh.
- F. “Women”, regardless of race, ethnicity, or origin.
- G. “Other” individuals found to be socially and economically disadvantaged by the Small Business Administration (SBA) pursuant to Section 8(a) of the Small Business Act.

8.14. DISCLAIMER OF LIABILITY

The Authority will not hold harmless or indemnify any contractor for any liability whatsoever, except those arising out of circumstances under the sole control of the Authority or where it is determined there is a shared liability.

In a 1986 Kentucky Attorney General Opinion, the Attorney General confirmed that the Commonwealth of Kentucky is “clearly prohibited” from entering into an indemnity or “hold harmless” clause under Sections 50, 171, and 177 of the Kentucky Constitution. Section 50 of the Kentucky Constitution prohibits any “agency of the state, including its legislature” from placing “an obligation against the general funds otherwise available for appropriation and expenditure by a future legislature.” Section 177 of the Kentucky Constitution prohibits lending the credit of the Commonwealth to any person or corporation for any purpose – public or otherwise. Additionally, payment of private claims would violate Kentucky Constitution Section 171, which requires that public funds be used only for public purposes. The Attorney General concluded that such an indemnity provision is “clearly unconstitutional.”

Lextran is prohibited from entering into an indemnity agreement with Contractors because it is a political subdivision of the Commonwealth. Lextran is an agency and instrumentality of the Lexington-Fayette Urban County Government. Kentucky courts “have adhered to a rather strict course in holding that a county, and a city as well, as a subordinate political subdivision of the state and as a part of the sovereignty itself, exists and operates under the general laws of the Commonwealth, and derives all of its powers of functioning through express legislative enactments.” Lextran “is but an arm of the state government” and is bound by the Kentucky Constitution.

8.15. DRUG AND ALCOHOL TESTING

FTA’s drug and alcohol rule, 49 CFR 655 is unique among the regulations issued by FTA. First, they require recipients to ensure that any entity performing a safety-sensitive function on the recipient’s behalf (usually subrecipients and/or contractors) implement a complex drug and alcohol testing program that complies with Parts 655. Second, the rules condition the receipt of certain kinds of FTA funding on the recipient’s compliance with the rules; thus, the recipient is not in compliance with the rules unless every entity that performs a safety-sensitive function maintains a testing program.

(a) Option 1

The contractor agrees to participate in the Authority’s drug and alcohol program established in compliance with 49 CFR 655.

(b) Option 2

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR 655, produce any

documentation necessary to establish its compliance with 49 CFR 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Kentucky, or the Authority, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR 655 and review the testing process. The contractor agrees further to certify annually its compliance with 49 CFR 655 before (insert date) and to submit the Management Information System (MIS) reports before (insert date before March 15) to (insert title and address of person responsible for receiving information). 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.

(c) Option 3

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR 655, produce any documentation necessary to establish its compliance with 49 CFR 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Kentucky, or the Transit Authority, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR 655 and review the testing process. The contractor agrees further to certify annually its compliance with 49 CFR 655 before (insert date) and to submit the Management Information System (MIS) reports before (insert date before March 15) to Lextran's Human Resources department at 200 West Loudon Avenue, Lexington, KY 40508. To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements", which is published annually in the Federal Register. The Contractor agrees further to [Select a, b, or c] (a) submit before (insert date or upon request) a copy of the Policy Statement developed to implement its drug and alcohol testing program; OR (b) adopt (insert title of the Policy Statement the recipient wishes the contractor to use) as its policy statement as required under 49 CFR 655; OR (c) submit for review and approval before (insert date or upon request) a copy of its Policy Statement developed to implement its drug and alcohol testing program. In addition, the contractor agrees to: (to be determined by the recipient but may address areas such as: the selection of the certified laboratory, substance abuse professional, or Medical Review Officer, or the use of a consortium).

The drug and alcohol testing provisions apply to Operational Service Contracts specifically involving transit operations.

8.16. ENERGY CONSERVATION REQUIREMENTS

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

The Energy Conservation requirements are applicable to all contracts.

The Energy Conservation requirements extend to all third-party contractors and their contracts at every tier and subrecipients and their sub agreements at every tier.

8.17. FEDERAL CHANGES - NOTICE TO THIRD PARTY PARTICIPANTS

Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law,

regulation, other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and

Applicable changes to those federal requirements will apply to each Third-Party Agreement and parties thereto at any tier.

8.18. FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

A. The contractor certifies that it:

- Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
- Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

If the contractor cannot so certify, the Recipient will refer the matter to FTA and not enter into any Third-Party Agreement with the Third-Party Participant without FTA's written approval.

B. Flow-Down. The Recipient agrees to require the contractor to flow this requirement down to participants at all lower tiers, without regard to the value of any sub agreement.

8.19. GEOGRAPHIC RESTRICTIONS

The recipient agrees that it will not use any state or local geographic preference, except as permitted by federal law (for example, 66 section 25019 of the infrastructure investment and jobs Act of 2021, Pub. L. 117-58), regulation, requirement or guidance.

8.20. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

This contract is a covered transaction for purposes of 2 CFR Part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Non procurement)", 2 C.F.R. Part 180. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 2 CFR 1200, or affiliates, as defined at 2 CFR 1200, are excluded or disqualified as defined at 2 CFR 1200.

The contractor is required to comply with 2 CFR 1200 and must include the requirement to comply with 2 CFR 1200 in any lower tier covered transaction it enters into.

The contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- Debarred from participation in any federally assisted award.
- Suspended from participation in any federally assisted award.
- Proposed for debarment from participation in any federally assisted award.
- Declared ineligible to participate in any federally assisted award.
- Voluntarily excluded from participation in any federally assisted award; or
- Disqualified from participation in any federally assisted award.

By signing and/or submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by Lextran. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Lextran, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 CFR 1200 while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

This clause applies to all contracts over \$25,000.

8.21. 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 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Lextran requests which would cause Lextran to be in violation of the FTA terms and conditions.

8.22. INDEMNIFICATION

In matters under the sole control of the contractor the Contractor agrees to protect, defend, indemnify and hold the Authority, its officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees (including attorney's fees) or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this agreement and/or the performance hereof. Without limiting the generality of the foregoing, any and all such claims, etc., relating to personal injury, infringement of any patent, trademark, copyright (or application for any thereof) or of any other tangible or intangible personal or property right, or actual or alleged violation of any other tangible or intangible personal or property right, or actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. The contractor further agrees to investigate, handle, respond to, provide defense for and defend any such claims, etc., at his/her sole expense and agrees to bear all other costs and expenses related thereto, even if such claim is groundless, false or fraudulent.

8.23. INSURANCE

Insurance: The contractor shall procure or maintain for the duration of any contract issued pursuant to this bid a policy or policies of insurance for the protection of the contractor. The Authority requires certification of insurance coverage from all vendors, contractors/subcontractors prior to commencing work.

Contractor shall provide and maintain, and shall require subcontractors, if any, to provide and maintain, with forms and insurers acceptable to Lextran and having a Best Rating of not less than A+ (or another rating acceptable to the city) for the following insurance coverage's:

- a) Insurance protection for Contractor's employees to the extent required by the Workers' Compensation Law of the states where this work will be performed and where same is not applicable or if necessary to provide a defense to Lextran, Employers Liability Protection (covering both Lextran and Contractor) for Contractor's employees for no less than \$4,000,000 per employee.
- b) If applicable, Longshoremen's & Harbor Workers' Compensation Act Insurance Coverage imposed by federal statutes having jurisdiction of Contractor's employees while engaged in the performance of the services. The policy shall have a limit of no less than \$4,000,000.
- c) Commercial General Liability Insurance, written on an occurrence basis only with a combined single limit of no less than \$10,000,000 per occurrence. This insurance shall include coverage for bodily injury, broad form property damage, (including completed operations), personal injury (including contractual and employee acts), blanket contractual, contractor's protective, and products and completed operations. Further, the insurance shall include coverage for the hazards commonly referred to as XCU (explosion, collapse and underground). This coverage should be obtained if the contract involves blasting, excavating, tunneling or other underground work. Said insurance shall contain a severability of interest's provision. The products and completed operations coverage shall extend for (2) years past acceptance, cancellation, or termination of Services.
- d) Business Automobile Liability Insurance with a combined single limit for bodily injury and property damage of no less than \$10,000,000 per occurrence, with respect to all vehicles used in performance of the services, whether owned, non-owned, leased, hired or assigned. If applicable, Aircraft Public Liability Insurance, covering fixed wing and rotorcraft aircraft, whether owned, non-owned, leased, hired, or assigned with a combined single limit for bodily injury and property damage, including passenger liability coverage of no less than \$5,000,000.
- e) If applicable, Builders Risk Insurance in the amount of 100 percent of the contract amount of the building or buildings to be constructed. Unless otherwise specified, the Contractor shall provide and maintain a builder's risk policy inclusive of fire, extended coverage, vandalism and malicious mischief insurance. The policy will cover the interest of Lextran and the contractor and a certificate of insurance evidencing such coverage shall be secured and presented to Lextran prior to the start of construction.

The policies required by this section shall be endorsed to include Lextran as additional insured's and shall stipulate that the insurance shall be primary insurance and that any insurance carried by Lextran, its directors, officers, public officials, or employees shall not be contributory insurance.

Contractor and its insurers providing the required coverages shall waive all rights of recovery against Lextran and its directors, officers, public officials, employees, and agents.

Prior to commencing any services under this contract, Contractor will furnish Lextran with certificates of insurance issued by Contractor's insurer(s), as necessary, in a form acceptable to Lextran, as evidence that the insurance policies, including all applicable endorsements, providing the required coverage's, conditions, and limits required by the section are in full force and effect. Lextran also reserves the right to request and receive certified copies of any and all such Insurance policies and or endorsements.

Lextran shall not be obligated however to review such insurance certificates, policies and endorsements, or to advise Contractor of any deficiencies in such documents, and such receipt shall not relieve Contractor from or be deemed a waiver of Lextran's right to insist on strict fulfillment of Contractor's obligations herein. Contractor's Certificates of Insurance shall provide for no less than thirty days advance notice of cancellation, termination or alteration. All such certificates, endorsements and notices shall be sent directly to Lextran.

8.24. LIQUIDATED DAMAGES

The Owner and the General Contractor recognize and agree that time is of the essence of this Contract and that the Owner will suffer financial loss if the Work is not completed within the time specified in the Contract plus any extensions that may be allowed. The parties further recognize the delays, expense and difficulties involved in proving the actual loss suffered by the Owner should the Work not be completed on time. The Owner and the General Contractor agree on the amounts stated as liquidated damages in the Agreement. The Owner and General Contractor agree that the amount stated as liquidated damages are not intended to be penalties.

Should the General Contractor fail to satisfactorily complete the Work under Contract on or before the date stipulated for Substantial Completion, as adjusted by approved Change Orders, if any, the General Contractor will be required to pay liquidated damages to the Owner for each consecutive Calendar Day that the Owner is deprived of full use of the area beyond the date specified unless otherwise stipulated elsewhere by Owner. After the date for Substantial Completion has been certified by the Owner, the General Contractor shall cease to owe liquidated damages until the date established for Final Completion.

If Final Completion is not achieved by the date established for Final Completion, as adjusted by approved Change Orders, if any, liquidated damages in the amount stipulated in the Agreement will become due and collectable. The Contract will be considered complete and Final Completion shall be deemed to have occurred when all Work has been completed in compliance with the Contract Documents and the Certificate of Final Completion has been issued by the Owner. No deduction or payment of liquidated damages will, in any degree, release the General Contractor from further obligations and liabilities to complete the entire Contract. Permitting the General Contractor to continue and finish the Work, or any part of it, after expiration of the Contract Time, shall in no way constitute a waiver on the part of the Owner of any liquidated damages due under the Contract.

8.25. LOBBYING

Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A.

Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.

Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

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

The Lobbying requirements apply to all contracts exceeding \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year. The Lobbying requirements flow down to all subcontracts at every tier.

8.26. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

(1) Lextran and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to Lextran, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

8.27. NOTICE OF LEGAL MATTERS & FLOW DOWN REQUIREMENTS

Where applicable, if this project is federally funded and is expected to equal or exceed \$25,000, Lextran agrees to notify the FTA Chief Counsel or FTA Regional IV legal counsel of a current or prospective legal matter that may affect the Federal government. Contractor agrees this affirmative notification provision will flow down to subcontractors and suppliers and is to be included in all agreements at all tiers. Failure to include this notice may be deemed a material breach of contract.

8.28. NOTICE TO FTA AND U.S. DOT INSPECTOR GENERAL OF INFORMATION RELATED TO FRAUD, WASTE, ABUSE, OR OTHER LEGAL MATTERS

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

(1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

(2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

(3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

8.29. PAYMENT OF SUBCONTRACTORS

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from Lextran. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of Lextran. This clause applies to both DBE and non-DBE subcontracts.

The Contractor is required to include, in each subcontract, a clause requiring the use of appropriate arbitration mechanisms to resolve all payment disputes.

Lextran will not pay the Contractor for work performed unless and until the Contractor ensures that the Subcontractors have been promptly paid for the work they have performed under all previous payment requests, as evidenced by the filing with Lextran of lien waivers, canceled checks (if requested), and the Contractor's sworn statement that it has complied with the prompt payment requirements. Prime Contractors must submit a prompt payment affidavit, (form to be provided by Lextran and reproduced below) which identifies each subcontractor (both DBE and non-DBE) and the date and amount of the last payment to such subcontractor, with every payment request filed with Lextran, except for the first payment request, on every contract with Lextran.

Failure to comply with these prompt payment requirements is a material breach of the Contract, which may lead to any remedies permitted under law, including, but not limited to, Contractor debarment.

8.30. PROCUREMENT OF RECOVERED MATERIALS

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement for recovered materials identified in the EPA guidelines.

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired-Competitively within a timeframe providing for compliance with the contract performance schedule; Meeting contract performance requirements; or at a reasonable price. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines Website, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>

8.31. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

(a) Definitions. As used in this clause—

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People's Republic of China.

Covered telecommunications equipment or services means—

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means—

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

- (4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);
- (5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or
- (6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(b) Prohibition.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

(c) Exceptions. This clause does not prohibit contractors from providing—

- (1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
- (2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) Reporting requirement.

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause

(i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial products or commercial services.

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

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies", 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

8.33. PROMPT PAYMENT AFFIDAVIT

Contractor will place a check in the appropriate box below that applies to this payment request.

Re: Payment Request No. _____

I, _____ (Name), the _____ (Title - e.g., President, Vice President, etc.) of _____ ("Company"), do state the following with regard to payments made under Contract No. _____ ("Contract"):

____ Subcontractors, at the first tier, both DBE and non-DBE, who completed work and were listed for payment on the prior Payment Request No. _____, were paid no later than thirty (30) business days after Company received payment from Lextran.

____ Copies of invoices and cancelled checks for subcontractors at the first tier who were paid under the prior payment request have been delivered or mailed to the DBE Department. In addition, Company has attached to the current Payment Request all lien waivers for prior subcontractor payments and any other documentation required by Lextran. (Failure to attach all required documentation to the Payment Request or forward cancelled checks and invoices to the Lextran DBE Department may cause the Payment Request to be rejected by Lextran.)

____ All retainage amounts withheld from any subcontractor who satisfactorily completed its portion of the contract work, including punch list items, were paid to the subcontractor(s) no later than thirty (30) business days after it satisfactorily completed its work, whether or not Lextran has paid said retainage amounts to Company. Attach a copy of the cancelled check evidencing payment of each retainage amount.

____ There was no delay in or postponement of any payment owed to a subcontractor, whether periodic payment or retainage amount, except for good cause and after receipt of prior written approval from the Lextran Purchasing Agent.

Attach a copy of the written approval from the Lextran Purchasing Agent.

Company Name

Signature

Print Name

Date: _____

Subscribed and sworn to before me this _____ day of _____ 20__.

Notary Public

8.34. PROTEST PROCEDURES

Protests will only be accepted from prospective proposers whose direct economic interest would be affected by the award of a contract to the refusal to award a contract. The Procurement Manager will receive and then forward all protests to the General Manager who will consider the protest, whether submitted before or after the award of a contract. The only exception to this procedure is in the case where the selection of a management company is involved; in this instance the protests will be forwarded to the Chairman of the Authority Board. If oral objections are raised and then cannot be resolved, the protest must then be made in writing before any further consideration can be given.

Protests must be concise, logically arranged, and clearly state the grounds for protest. Protests must include, at least, the following information:

- Name, address, and telephone number of protester
- Identification of the solicitation
- A detailed statement of the legal and factual grounds of the protest
- A statement as to what relief is requested

All protests documents received shall be stamped with the date and time by the Procurement manger and logged into a protest file.

Lextran will respond, in detail, to each substantive issue raised in the protest. Lextran's determination will be final. Lextran will allow a request for reconsideration if data becomes available that was not previously known, or there has been an error of law or regulation.

(a) Protests Before Award

Protests before award must be submitted within the time frame as specified below. If the written protest is not received by the time specified, the evaluation process shall continue in the normal manner, unless the General Manager upon investigation finds that remedial action is desirable, in which event such action shall be taken.

The protests addressing the adequacy of invitation for Bids, RFPs, including, without limitation, the pre-award procedure, the instructions to Bidders, General Terms and Conditions, Specifications and Scope of work must be filed at 200 West Loudon Avenue, Lexington, KY 40508 no later than three days before bid date. Thereafter, such issues are deemed waived by all interested parties.

Notice of a protest and the basis therefore shall be given to all bidders or offerers. In addition, when a protest against the making of an award is received, and the General Manager determines to withhold the award pending disposition of the protest, the bidders (whose bids might become eligible for award) shall be requested, before expiration of the time for acceptance of their bids, to extend the time for acceptance (with consent of sureties, if any) to avoid the need for re-advertising.

A written protest against the making of an award must be received by the Procurement Manager, at least, ten (10) days prior to the scheduled contract award date.

Where written protest against the making of an award is received, award shall not be made until five (5) days after the matter is resolved, unless the General Manager determines that:

The items to be procured are urgently required; or

Delivery or performance will be unduly delayed by failure to make the award promptly; or

Failure to make prompt award will otherwise cause undue harm to the Authority or the State or the Federal Government.

In the event the General Manager determines that the award is to be made during the five-day period or during the pendency of a protest, he or she shall notify FTA prior to making such award. FTA reserves the right not to participate in such procurement. If award is made, the Authority shall document the file to explain the need for an award and shall give written notice of the decision to proceed with the award to the protester and, as appropriate, to others concerned.

(b) Protest After Award

Protest against award must be filed at the Authority's office within five (5) days immediately following the award. The protest shall be received by the Procurement Manager. However, although the number of persons involved in or affected by the filing of a protest may be limited in instances where an award has been made, the Contractor shall in any event be furnished with the notice of protest and the basis therefore. Also, when it appears likely that an award may be invalidated and a delay in receiving the supplies or service is not prejudicial to the Authority's interest, the General Manager shall consider a mutual agreement with the contractor to suspend performance on a no-cost basis.

Decision on the Protest: The General Manager shall render his or her decision in writing within fourteen (14) days from the receipt of the written protest and shall provide notice of such decision to all interested parties.

FTA's Review of Protests: FTA will only review protests that are primarily a Federal concern, pursuant to 2 CFR § 200.318(k).

Examples of "Federal concerns" include, but are not limited to, situations where a special Federal interest is declared because of program management concerns, possible mismanagement, impropriety, waste, or fraud. When raising Federal matters with the FTA prior to exhaustion of all administrative remedies with Lextran, protesters are advised to clearly articulate the Federal concern, its impact on Lextran's view of the protest, the prejudice to the protester that will result if FTA does not resolve the Federal matter immediately, and provide any other relevant documents or materials.

Alleged violations on other grounds are under the jurisdiction of the appropriate State or local administrative or judicial authorities. Alleged violations of a special Federal requirement that provides an applicable complaint procedure shall be submitted and processed in accordance with that Federal regulation. See, e.g., Buy America Requirements, 49 CFR Part 661 (Section 661.15); Participation by Minority Business Enterprise in Department of Transportation Programs, 49 CFR Section 23.73.

FTA's Remedy: Should the grounds for the protest be found valid and on a matter that is primarily a Federal concern by FTA, FTA may choose not to participate in funding the contract.

(c) Definitions

For the purposes of this section, the following definitions apply:

"Days" refers to working days of the Federal Government.

"File" or "submit" refers to the date of receipt by the General Manager or FTA, as the case may be.

"Interested party" means an actual or prospective bidder or offerer whose direct economic interest would be affected by the award of the contract or by failure to award the contract.

Time for Filing with FTA: Protestors shall file a protest with FTA no later than five (5) days after a final decision is rendered under protest procedure. In instances where the protestor alleges that the Authority failed to make a final determination on the protest, protestors shall file a protest with FTA no later than five (5) days after the protestor knew or should have known of the Authority's failure to render a final determination on the protest. The Authority shall not award a contract for five (5) days following its decision on a bid protest except in accordance with the provisions and limitations set forth above. After five (5) days, the Authority shall confirm with FTA that FTA has not received a protest on the contract in question.

(d) Submission of Protest to FTA

Protests should be filed with the appropriate FTA Regional Office with a concurrent copy to:

Transit Authority of Lexington-Fayette Urban County Government
200 West Loudon Avenue
Lexington, KY 40508

The protest filed with FTA shall:

- Include the name and address of the protestor;
- Identify Lextran as the authority (the FTA grantee), project number (if applicable) and the number of the contract solicitation;
- Contain a statement of the grounds for protest and any supporting documentation. This should detail the alleged failure to follow protest procedures or the alleged failure to have procedures, and be fully supported to the extent possible; and
- Include a copy of the local protest filed with the Authority and a copy of the Authority's decision, if any.

(e) Authority's Response

FTA shall notify the Authority in a timely manner of the receipt of a protest. FTA shall instruct the Authority to notify the contractor of the protest if an award has been made or, if no award has been made, to notify all interested parties. The Authority shall

instruct all who receive such notice that they may communicate further directly with FTA.

The Authority shall submit the following information to FTA no later than ten (10) days after receipt of notification by FTA of the protest:

- A copy of the protest procedure;
- A description of the process followed concerning the protestor's protest; and
- Any supporting documentation.
- The Authority shall provide the protestor with a copy of the above submission to FTA.

(f) Protestor's Comments

The protestor must submit any comments on the Authority's submission no later than ten (10) days after the protestor's receipt of submission.

(g) Withholding of Award

When a protest has been timely filed with the Authority before award, the Authority shall not make an award prior to five (5) days after the resolution of the protest, or if a protest has been filed with FTA, during the pendency of that protests, unless the Authority determines that:

The items to be procured are urgently required;

Delivery or performance will be unduly delayed by failure to make the award promptly; or

Failure to make prompt award will otherwise cause undue harm to the Authority or the Federal Government.

In the event that the Authority determines that the award is to be made during the five-day period following the local protest decision or pendency of a protest, the Authority shall notify FTA prior to making such award. FTA will not review the sufficiency of the Authority's determination to award during the pendency of a protest prior to FTA's bid protest decision. FTA reserves the right not to participate in the funding of any contract awarded during the pendency of a protest.

FTA's Action: Upon receipt of the submission, FTA will either request further information or a conference among the parties, or will render a decision on the protest.

1986 Ky. AG LEXIS 70.

*Id. at *2 (emphasis added).*

*Id. at *2-*3 (citing McGuffey v. Hall, 557 S.W.2d 401, 409 (Ky. 1977)).*

*Id. at *3 (citing McGuffey, 557 S.W.2d at 410)).*

Id.

*Id. at *6*

Transit Authority of Lexington-Fayette Urban County Government v. Amalgamated Transit Union, Local 639, 698 S.W.2d 520, 523 (Ky. 1985) ("The Transit Authority [Lextran] is charged with the performance of a public purpose. It is an agency of government, a political subdivision, and its governing board has a responsibility to the public to faithfully discharge its duties relating to the control and management of the Authority.") (emphasis added).

*See OAG 83-152, 1983 Ky. AG LEXIS 344, *4-*5 (1983) ("Thus [the Transit Authority of River City] is an agency and instrumentality of the City of Louisville and Jefferson County."). "There is a long line of cases holding that a political subdivision (or its agent or instrumentality) has such authority expressly delegated to it or such essential power as may reasonably be necessary to execute express powers or discharge duties devolved upon it." *Id. at *9 (citing Bruner v. Jefferson County Fiscal Court, 239 Ky. 613 (Ky. 1931)).**

*OAG 86-50, 1985 Ky. AG LEXIS 99, *11 (1985) (emphasis added).*

Holland v. Fayette County, 240 Ky. 37, 44 (Ky. 1931) ("The county is but an arm of the state government; it is merely a subdivision of the state formed for administrative convenience . . .").

8.35. REPORTING REQUIREMENTS DURING THE TERM OF THE CONTRACT

The bidder/proposer shall within thirty (30) business days of contract award, or prior to any work being performed, execute formal subcontracts or purchase orders with the DBE firms included in the bid/proposal. These written agreements shall be made available to Lextran upon request. All contracts between the bidder/proposer and its subcontractors must contain a prompt payment clause as set forth in this section above.

During the term of annual contracts, the bidder shall submit regular "Status Reports of DBE Subcontract Payments" in a form acceptable to the Authority. The frequency with which these reports are to be submitted will be determined by Lextran, but in no

event will reports be required less frequently than quarterly. In the absence of written notice from Lextran, the bidder/proposer's first "Status Report of DBE Subcontract Payments" will be due ninety (90) days after the date of contract award, with additional reports due quarterly thereafter. In the case of a one-time procurement with either a single or multiple deliveries, a "Status Report of DBE Subcontract Payments", in a form acceptable to the Authority, indicating final DBE payments shall be submitted directly to Lextran. The information must be submitted prior to or at the same time as the bidder/proposer's final invoice to the Authority. Failure to follow these directions may delay final payment.

8.36. SAFE OPERATION OF MOTOR VEHICLES

(a) **Seat Belt Use**

The contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or Lextran.

(b) **Distracted Driving**

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle the Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

8.37. SOLID WASTES

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

8.38. SOLID WASTES (RECOVERED MATERIALS)

A Recipient that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

8.39. TERMINATION

a. **Termination for Convenience (General Provision)** Lextran may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in Lextran's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Lextran to be paid the Contractor. If the Contractor has any property in its possession belonging to Lextran, the Contractor will account for the same, and dispose of it in the manner Lextran directs.

b. **Termination for Default [Breach or Cause] (General Provision)** If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, Lextran may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by Lextran that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, Lextran, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

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

If Contractor fails to remedy to Lextran's satisfaction the breach or default of any of the terms, covenants, or conditions of this

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

d. Waiver of Remedies for any Breach In the event that Lextran elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by Lextran shall not limit Lextran's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience or Default (Architect and Engineering) Lextran may terminate this contract in whole or in part, for Lextran's convenience or because of the failure of the Contractor to fulfill the contract obligations. Lextran shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of Lextran, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, Lextran may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by Lextran.

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

8.40. TRAFFICKING IN PERSONS

The contractor agrees that it and its employees that participate in the Recipient's Award, may not:

- A. Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect;
- B. Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or
- C. Use forced labor in the performance of the Recipient's Award or sub agreement thereunder.

9. VENDOR QUESTIONNAIRE

9.1. Questionnaire Notice*

Please note that this questionnaire DOES NOT need to be printed and included as part of your proposal documents. OpenGov collects your responses to these questions at the time of submission and provides them to Lextran.

☐ Please confirm

*Response required

9.2. Proposal Authorization*

Are you an authorized member of your organization to submit a proposal on your firm's behalf?

☐ Yes

☐ No

*Response required

9.3. Contact Information*

Please provide your contact information (Name, Title, Email, and Phone).

*Response required

9.4. Offer and Award Confirmation*

In compliance with the current published Request for Proposal, the company represented in this proposal agrees to furnish the goods and services described in accordance with the submitted signed proposal or as mutually agreed upon by subsequent negotiation.

☐ Please confirm

*Response required

9.5. Terms & Conditions Confirmation*

Please confirm that you have read and agreed to all of the terms and conditions of this solicitation. (Including the required Federal Clauses)

☐ Please confirm

*Response required

9.6. Proposal Requirements*

Do you meet all of the proposal requirements including:

1. All Submission requirements
2. All Scope of Services requirements
3. All Required Forms
4. All Cost information
5. All Capacity information
6. All related experience information and at least three (3) references

☐ Yes

☐ No

*Response required

9.7. Proposal Upload*

Upload your completed proposal here.

*Response required

9.8. Training Materials Upload*

Please upload a copy of your standardized staff training plan and relevant materials as required in Section 2.9 - Staffing & Training.

*Response required

9.9. Upload Required Forms*

Upload all required forms:

- A. Certification of Restrictions on Lobbying
- B. Certification Regarding Debarment, Suspension and Other Ineligibility
- C. Non-Collusion Affidavit
- D. Certificate of Procurement Integrity
- E. Affidavit of Compliance-DBE (If Applicable)
- F. Buy America
- G. Financial Capacity

*Response required

9.10. Upload Certificate of Insurance *

Please upload a copy of your certificate of insurance.

*Response required

9.11. Number of Employees *

Please choose which selection best describes your company for the number of employees:

- ☐ Less than 10 Employees
- ☐ 10-50 Employees
- ☐ 51-100 Employees
- ☐ 101-500 Employees
- ☐ 501-1,000 Employees
- ☐ 1,001-5,000 Employees
- ☐ More than 5,000 Employees

*Response required

9.12. Years of Operation*

Please choose which response best describes your company's years of operation:

- ☐ 0-5 Years
- ☐ 6-10 Years
- ☐ 11-50 Years
- ☐ Over 50 Years

*Response required

9.13. Annual Gross Income Classification*

Please choose which response best describes your company's annual gross income:

- ☐ Less than \$100,000
- ☐ \$100,000 - \$250,000
- ☐ \$250,000 - \$500,000
- ☐ \$500,000 - \$1,000,000
- ☐ \$1,000,000 - \$5,000,000
- ☐ Over \$5,000,000

*Response required

9.14. Company Classification*

Is your company certified as one of the following?

- A. Certified DBE
- B. Certified MBE
- C. Certified WBE

☐ Yes

☐ No

*Response required

When equals "Yes"

9.14.1. Company Classification Certificate Upload*

If your company is certified as any of the above (DBE, MBE, WBE), please upload the up-to-date certificate here.

*Response required

9.15. Additional Information

Attach any additional information you would like to provide to Lextran here.