

EXHIBIT E-1
IFB # 213-22-11
Addendum to Contractual Terms and Conditions
Federally Assisted Supply Contract

1-1 Applicability and Federal Grant Contract

The Purchaser and Contractor acknowledge and agree that This Contract between Supplier and GRTC is subject to financial assistance provided by the U.S. Department of Transportation, the Virginia Department of Rail and Public Transportation, and the City of Richmond. Supplier is required to comply with all terms and conditions prescribed in third party contracts in the grant Contract between the U.S. Department of Transportation and GRTC.

New federal, state, and local laws, regulations, ordinances, rules, policies, and administrative practices may be established after the date this Contract is established and may apply to this Contract. To achieve compliance with changing requirements, Supplier agrees to accept all changed requirements that apply to this Contract and require subcontractors to comply with revised requirements as well.

1-2 Interest of Members or Delegates of Congress

In accordance with 41 U.S.C. Section 22, Supplier agrees that it will not admit any member of or delegate to the United States Congress to any share or part of the Project or any benefit derived therefrom.

1-3 No Federal Government Obligations to Third Parties

Supplier agrees that, absent the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to any subrecipient, any third-party contractor, or any person not a party to the Grant Agreement or Cooperative Agreement in connection with the performance of the Project. Notwithstanding that the Federal Government may have concurred in or approved any solicitation, sub agreement, or third party contract, the Federal Government has no obligations or liabilities to any party, including any subrecipient or any third party contractor.

1-4 False or Fraudulent Statements or Claims

Supplier acknowledges and agrees as follows:

- A. Supplier recognizes that the requirements of the Program Civil Remedies Act of 1986, as amended, 31 U.S.C. subsection 3801 et seq. and U.S. Department of Transportation regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its activities in connection with the Project. Accordingly, by signing the contract, Supplier certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make pertaining to the contract. In addition to other penalties that may apply, Supplier also acknowledges that if it makes 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, as amended, on Supplier to the extent the

Federal Government deems appropriate.

- B. Supplier also acknowledges that if it makes a false, fictitious or fraudulent claim, statement, submission, or certification to the Federal Government in connection with an urbanized area formula project financed with Federal assistance authorized by 49 U.S.C. section 5307, the Government reserves the right to impose on Supplier the penalties of 18 U.S.C. section 1001 and 49 U.S.C. section 5307 (n) (1), to the extent the Federal Government deems appropriate.

1-5 Access to Records

In accordance with 49 U.S.C. Section 5325(a) Supplier agrees to provide GRTC, the FTA Administrator, the U.S. Secretary of Transportation, the Comptroller General of the United States, or their duly authorized representatives with access to all books, documents, papers and records of Supplier which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions.

Supplier agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

Supplier agrees to 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 Supplier agrees to maintain same until GRTC, the FTA Administrator, the U.S. Secretary of Transportation, the Comptroller General of the United States, or any of their duly authorized representatives have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

Supplier agrees to include the above clauses 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.

1-6 Federal Changes

Supplier shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement (Form FTA MA (14) dated October 2007) between GRTC and FTA, as they may be amended or promulgated from time to time during the term of this contract. Supplier's failure to so comply shall constitute a material breach of this Contract.

1-7 Equal Employment Opportunity

In connection with this project, Supplier will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or disability. Supplier will take affirmative action to insure that qualified and approved applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, age, or national origin. Such action will include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment advertising, layoff or termination, rates of pay or other compensation, and selection for training, including apprenticeship. Supplier will also notify any and all subcontractors or suppliers of its

obligations under this contract related to this provision.

1-8 Civil Rights Requirements

- A. Nondiscrimination in Federal Transit Programs – Supplier agrees to comply, and assures the compliance of each subcontractor, with the provisions of 49 U.S.C. section 5332, which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.
- B. Nondiscrimination – Title VI of the Civil Rights Act – Supplier agrees to comply, and assures the compliance of each subcontractor, with all requirements prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq.*, and U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of Civil Rights Act,” and 49 CFR Part 21, and any implementing requirements FTA may issue.
- C. Equal Employment Opportunity - Supplier agrees to comply, and assures the compliance of each subcontractor, with all requirements of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and 49 U.S.C. § 5332 and any implementing requirements FTA may issue. Those equal employment opportunity requirements include, but are not limited to, those listed in the Master Agreement (Form FTA MA (14) dated October, 2007) Section 12c(1) between GRTC and FTA.
- D. Access Requirements for Persons with Disabilities – Supplier agrees to comply with the requirements of 49 U.S.C. § 5301(d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Supplier also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, Supplier agrees to comply with all applicable requirements of those regulations and any subsequent amendments listed in the Master Agreement (Form FTA MA (14) dated October, 2007) Section 12g between GRTC and FTA.
- E. Supplier also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

1-9 Disadvantaged Business Enterprises (DBEs)

It is the policy of GRTC that DBEs as defined in 49 CFR Part 26 shall have a level playing field to compete fairly for DOT-assisted contracts. Contractor shall take all necessary and reasonable steps to ensure that DBEs have a level playing field to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If Contractor intends to subcontract a portion of the Services on the project, Contractor is encouraged to contact DBEs to solicit their interest, capability and qualifications.

It is the policy of GRTC to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions. Therefore, GRTC encourages Contractor to use DBE financial institutions whenever possible.

1-10 Contract Assurance

Supplier or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Supplier shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by Supplier 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 GRTC deems appropriate.

1-11 Prompt Payment

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

- A. If Supplier fails to pay the subcontractor within thirty (30) days, Supplier must notify GRTC and the subcontractor, in writing, of its intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.
- B. Supplier is obligated to pay interest to the subcontractor on all amounts owed by Supplier that remain unpaid after thirty (30) days following receipt by Supplier of payment from GRTC for work performed by the subcontractor under that contract, except for amounts withheld as allowed in paragraph A of this section. Unless otherwise provided under the terms of the contract, interest shall accrue at the rate of one percent (1%) per month, except for the amounts withheld. Notification of failure by Supplier to make prompt payment to the subcontractor hereinbefore provided will result in notification to Supplier's bonding company by GRTC.
- C. Should either Supplier or subcontractor advise GRTC of a payment issue involving a DBE Contractor, the DBELO officer shall be notified so as to investigate, as appropriate.

1-12 Energy Conservation

Supplier agrees to comply with the mandatory energy efficiency standards and policies within the applicable State energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. Subsection 6321 *et seq.*

1-13 Clean Air

Supplier agrees to comply with all applicable regulations, standards or orders implementing the Clean Air Act, as amended, 42 U.S.C. Subsection 7401 *et seq.* In addition:

- A. Supplier agrees to comply with applicable requirements of U.S. EPA regulations, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act," 40 CFR Part 51 Subpart T; and "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 CFR Part 93. To support the requisite air quality conformity finding for the Project, Supplier agrees to implement each air quality mitigation and control measure incorporated in the Project. Supplier further agrees that any project identified in an applicable State Implementation Plan (SIP) as a Transportation Control Measure will be wholly consistent with the description of the design concept and scope to the Project described in the SIP.
- B. U.S. EPA also imposes requirements implementing the Clean Air Act, as amended, that may apply to transit operators, particularly operators of large transit bus fleets. Accordingly, Supplier agrees to comply with the following U.S. EPA regulations to the extent they are applicable to the project: "Control of Air Pollution from Motor Vehicles and Motor Vehicle Engines," 40 CFR Part 85; "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines: Certification and Test Procedures," 40 CFR Part 86; and "Fuel Economy of Motor Vehicles," 40 CFR Part 600.
- C. Supplier agrees to comply with the notification of violating facilities requirements of Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

Supplier agrees to report and require each subcontractor at any tier to report any violation of these requirements resulting from Project implementation activity of any subcontractor or itself to FTA and the appropriate U.S. EPA office.

1-14 Clean Water

Supplier 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. Subsection 1251 *et seq.* In addition:

- A. Supplier agrees to protect underground sources of drinking water consistent with the provisions of the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. Subsection 300f *et seq.*

- B. Supplier agrees to comply with the notification of violating facilities requirements of Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.
- C. Supplier agrees to report and require each subcontractor at any tier to report any violation of these requirements resulting from Project implementation activity of any subcontractor or itself to FTA and the appropriate U.S. EPA office.

1-15 Preference for Recycled Products

To the extent applicable, Supplier agrees to comply with U.S. Environmental Protection Agency (U.S. EPA) "Comprehensive Procurement Guidelines for Products Containing Recovered Materials," 40 CFR Part 247, implementing section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6962, and otherwise provide a competitive preference for products and services that conserve natural resources and protect the environment and are energy efficient.

1-16 Debarment, Suspension and Other Responsibility Matters

- A. Supplier agrees to comply, and assures the compliance of all subcontractors, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Governmentwide Debarment and Suspension (Nonprocurement)," within 49 CFR Part 29.
- B. By signing and submitting a proposal, Supplier provided a signed Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions. The signed certification was submitted with the proposal and is made part of this Agreement hereto.
- C. The signed certification is a material representation of fact upon which reliance was placed when GRTC determined to enter into this transaction. If it is later determined that Supplier knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, GRTC may terminate this transaction for cause of default.
- D. Supplier shall provide immediate written notice to GRTC if at any time Supplier learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- E. The terms "covered transaction," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," "and" "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549.
- F. By signing and submitting a proposal, Supplier further certified that all subcontractors are not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction.

- G. Supplier further agrees that it and its subcontractors will provide immediate written notice if at any time Supplier learns that their subcontractor's certification was erroneous when submitted or has become erroneous because of changed circumstances.
- H. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- I. Except for transactions authorized under Paragraph E of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, GRTC may terminate this transaction for cause or default.

1-17 Lobbying Activities

- A. Supplier agrees that it will not use Federal assistance funds to support lobbying.
- B. Supplier agrees to comply, and assure the compliance of subcontractors, with U.S. DOT regulations, "New Restrictions on Lobbying," 49 CFR Part 20, modified as necessary by 31 U.S.C. § 1352.
- C. Supplier agrees to comply with Federal statutory provisions to the extent applicable prohibiting the use of Federal assistance funds for activities designed to influence Congress or a State legislature on legislation or appropriations, except through proper, official channels.
- D. No appropriated funds may be expended by the recipient of a federal contract, grant, loan, or cooperative agreement to pay any employee of any agency, member of congress, or an officer or employee of congress in connection with any of the following covered federal actions: the awarding of federal grants; the making of any federal loan; the entering into of any cooperative agreement; the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- E. Supplier agrees it has reviewed the above regulations and submitted with its bid a certification of compliance with federal lobbying regulations. Pursuant to federal regulations, Supplier is required to have all subcontractors providing more than \$100,000 in services to also complete this certification.

1-18 Buy America

Supplier agrees to comply with 49 U.S.C. § 5323(j), with FTA regulations, "Buy America Requirements," 49 CFR Part 661, and with implementing guidance FTA may issue.

The equipment to be purchased for this Contract is subject to the Federal Transit Administration Buy America Requirements in 49 CFR 661. Supplier agrees it has

completed the Buy-America Certification and certifies that the products subject to this section used in connection with this Contract will comply with the requirements of Section 165 and the regulation as set forth. Supplier understands that a false certification is a criminal act and in violation of 18 U.S.C. 1001. Willful refusal to comply with the certification by a Supplier may lead to initiation of debarment proceedings under 49 CFR Part 29.

1-19 Fly America

Supplier understands and agrees that the Federal Government will not participate in the costs of international air transportation of any persons involved in or property acquired for the project unless that air transportation is provided by U.S.-flag air carriers to the extent service by U.S.-flag air carriers is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and with U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 CFR §§ 301-10.131 through 301-10.143.

1-20 Cargo Preference – Use of U.S. Flag Vessels or Air Carriers

Supplier agrees to comply with U.S. Maritime Administration regulations, "Cargo Preference – U.S.-Flag Vessels," 46 CFR Part 381, to the extent those regulations apply to the project. Supplier also agrees:

- A. To utilize privately owned United States Flag Commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to the section, to the extent such vessels are available at fair and reasonable rates to United States Flag Commercial vessels.
- B. To furnish within thirty (30) days following the date of loading for shipments originating within the United States, or within thirty (30) working days following the date of loading for shipment originating outside the United States, a legible copy of a rated, "On Board" Commercial Ocean Bill-of-Lading in English for each shipment of cargo described in paragraph one above to the recipient (through Supplier in case of subcontractor Bills-of Lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, 400 7th Street, S.W., Washington, D.C. 20590, marked with appropriate identification of the project.

1-21 Disputes, Breaches, Defaults, or Other Litigation

Supplier agrees that FTA has a vested interest in the settlement of any dispute, breach, default, or litigation involving the project. Accordingly:

- A. Notification to FTA – GRTC shall notify FTA of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Government's interests in the project or the Federal Government's administration or enforcement of Federal laws or regulations. If GRTC seeks to name the Federal Government as a party to litigation for any reason, in any forum, GRTC shall inform FTA before doing so.

- B. Federal Interest in Recovery – The Federal Government retains the right to a proportionate share, based on the percentage of the Federal share awarded for the project, of proceeds derived from any third-party recovery, except that GRTC may return any liquidated damages recovered to its project account in lieu of returning the Federal share to the Government.
- C. Enforcement – GRTC agrees to pursue all legal rights provided within any third-party contract.
- D. FTA Concurrence – FTA reserves the right to concur in any compromise or settlement of any claim involving the project and GRTC.
- E. Alternative Dispute Resolution – FTA encourages GRTC to use alternative dispute resolution procedures, as may be appropriate.

1-23 Incorporation of FTA Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, dated June 19, 2003, 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. Supplier shall not perform any act, fail to perform any act, or refuse to comply with any GRTC requests which would cause GRTC to be in violation of the FTA terms and conditions.