

(NAME OF TRANSIT AGENCY)

THIRD PARTY CONTRACT

(CONTRACT NUMBER)

This AGREEMENT is entered into this (day) of (month) (year)
by and between the (hereinafter referred to as

“Agency”, located at

(TRANSIT AGENCY ADDRESS)

and

(hereinafter referred to as “Contractor”),

(NAME OF VENDOR COMPANY)

located at

(VENDOR ADDRESS)

WITNESSETH:

In consideration of the covenants, recitals, promises, representations and agreements herein set forth, the Agency and the Contractor do hereby expressly agree as follows:

ARTICLE I SCOPE OF WORK

It is mutually understood and agreed that:

The Contractor shall perform in accordance with this contract, and shall furnish all materials, performance of work, and services required to perform and complete in a sound, economical and efficient manner, and in accordance with provisions hereof and all applicable laws, all the work required for the following project:

(SCOPE OF WORK TO BE PERFORMED)

ARTICLE II COMPONENT PARTS OF THIS CONTRACT

This contract consists of this agreement and the following component parts. Components which are incorporated by reference and made part of this contract even if not attached hereto are referenced by title, date or other method of identification.

(DOCUMENT 1)

(DOCUMENT 2)

(DOCUMENT 3)

(DOCUMENT 4)

(DOCUMENT 5)

(DOCUMENT 6)

Attachment A -

(FEDERAL CONTRACT CLAUSES)

Appendix A - Prohibition of Discrimination in State Contracts.

Any inconsistency in the terms associated with this Contract will be resolved by the following order of precedence:

- (a) Published addenda modifying the
- (b) The contents of the
- (c) Contractor's response to the requirements.

ARTICLE III TIME

It is mutually understood and agreed that the Contractor will commence the work to be performed under this contract after this document is approved by the Michigan Department of Transportation. The signed and executed Third Party contract will serve as the "Notice to Proceed" subject to authorized adjustments, completion shall be achieved, and the following

(SCOPE OF WORK FROM ARTICLE I)

shall be delivered according to the Terms and Conditions of this Agreement by

(DATE)

ARTICLE IV PRICE

It is mutually understood and agreed that the Agency will pay in current funds to the contractor,

(DEFINE TERMS (LUMPSUM, ETC.) SUBCONTRACT DOLLAR AMOUNT AND ANY LOCAL FUND USED)

for completion of the work described in Article I as specified, subject to any deduction or additions provided by Change Order as provided in the Terms and Conditions. The total costs are not to exceed the Contract maximum amount of \$

The Contractor agrees that the costs reported to the Agency for this Contract will represent only those items which are properly chargeable in accordance with this Contract. All travel costs billed will follow the State of Michigan's vehicle and travel rates. Current travel rates can be found on the Department of Technology, Management and Budget's website at:

<https://www.michigan.gov/dtmb>. The Contractor also certifies that it has read the Contract terms and has made itself aware of the applicable laws, regulations, and terms of this Contract that apply to the reporting of costs incurred under the terms of this Contract.

If progress payments are made for costs incurred by the contractor prior to the completion of work, the Agency shall obtain adequate security for those payments; and, the Contractor will provide sufficient documentation to substantiate the work performed for which payment is requested.

The AGENCY agrees to pay each subcontractor for the satisfactory completion of work associated with the subcontract no later than ten (10) calendar days from the receipt of each payment the AGENCY receives from the DEPARTMENT. The AGENCY agrees further to return retainage payments to each subcontractor within ten (10) calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement from these time frames may occur only upon receipt of written approval from the DEPARTMENT. These requirements are also applicable to all sub-tier subcontractors and will be made a part of all subcontract agreements.

This prompt payment provision is a requirement of Title 49 CFR, Part 26.29, and does not confer third-party beneficiary right or other direct right to a subcontractor against the DEPARTMENT. This provision applies to both DBE and non-DBE subcontractors.

Add other sections of text as needed:

ARTICLE V MISCELLANEOUS

ALL terms and conditions included in the prime contract are incorporated in the subcontract. In the event of a conflict between the terms and conditions of the subcontract and those of the prime contract, the terms and conditions of the prime contract shall prevail.

This contract shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan.

In witness whereof the parties hereto have caused this agreement to be executed on the day and year first above written, in several original counterparts, each of which shall be deemed to constitute an original having identical legal effect.

CONTRACTOR:

(NAME OF VENDOR COMPANY)

SIGNATURE

TITLE

DATE

AGENCY:

(NAME OF TRANSIT AGENCY)

SIGNATURE

TITLE

DATE

INSTRUCTIONS

An MDOT - approved third party subcontract is required between the transit agency and contractor for purchases of more than \$100,000. This template is intended to be a guide to developing a third-party subcontract. Your agency or unit of government may require additional contract language. This may be language for indemnification, severability, liquidated damages, force majeure events, assignment, complete agreement, and/or waivers. This is not to be construed as a full and complete list. Consult an attorney or your legal department if you need more information.

NAME OF TRANSIT AGENCY- This is the name of the entity on the project authorization awarding the funds. Use as complete of an agency name as possible. For a transit agency that's a unit of county or city government, this will likely be the name of the city or the county board of commissioners.

CONTRACT NUMBER - This is the project authorization and subcontract number. The project authorization number is the Agreement Number and Authorization Number at the upper right of the grant contract. The subcontract number S is followed by the number of subcontracts the project authorization has. For example, the first subcontract on Agreement Number 2017-0235 and Authorization Number P11 should be written 2017-0235/P11/S1.

NAME OF VENDOR COMPANY AND VENDOR ADDRESS - This is the name and address of the vendor company providing the product or service. It must match the vendor company name in the vendor company's submitted proposal, bid or quote.

SCOPE OF WORK TO BE PERFORMED - This is the task the vendor company must provide. It is typically a description of the work and a reference to the issued solicitation. A typical scope of work might be "county-wide needs assessment study as described in the City of Hartford's Request for Proposal RFP 2016-7" or "Manufacture and delivery of four 29ft buses".

DOCUMENTS 1, 2, 3, 4, 5, 6 - These are attachments to the subcontract. Two required attachments are the solicitation as issued and the vendor company's submitted proposal, bid or quote. Your local agency may require additional attachments. You need to make sure the appendices, exhibits and or attachments are numbered and lettered correctly and match your contract language.

FEDERAL CONTRACT CLAUSES - Two other attachments are required after DOCUMENT 6. They are the federal contract clauses issued with the solicitation and the Prohibition of Discrimination in State Contracts (Appendix A). The name of the federal contract clauses appears at the top of page 1 of the clauses.

DEFINE TERMS (LUMP SUM, ETC.) AND DOLLAR AMOUNT - This is the method how the vendor company will be paid. It will typically be by lumpsum for a capital item like a bus or piece of maintenance equipment. It may be per unit cost for an agreed upon number of radios with a not to exceed price. It may be by progress payments per month or per week for work completed for a vendor company conducting a study or providing construction services on a large project.

PROMPT PAYMENT PROVISION LANGUAGE ON PAGE 3 - The federal requirements are payment no later than 30 days but MDOT has a more stringent requirement of payment no later than 10 days.

NAME OF VENDOR COMPANY, SIGNATURE, TITLE, DATE - This is the name of the vendor company providing the product or service. The signature and title must match the person authorized to sign for the vendor company as specified in the vendor company's submitted proposal, bid or quote.

NAME OF TRANSIT AGENCY, SIGNATURE, TITLE DATE - This is the name of the entity on the project authorization awarding the funds. The signature and title must match the person authorized to sign for the transit agency.