



STILES
PROPERTY
MANAGEMENT

**GENERAL TERMS AND CONDITIONS
FOR PROJECTS EXCEEDING \$100,000**

GENERAL TERMS AND CONDITIONS

1. **CONTRACTING ENTITY:** The Contracting Entity is Stiles Corporation d/b/a Stiles Property Management ("Stiles" or "Contractor").
2. **OWNER:** South Florida Rail Transit Authority ("Owner" or "SFRTA")
3. **SUBCONTRACTOR:** Entity awarded the work or services under the Standard Services Subcontractor Agreement ("Subcontract" or "Agreement").
4. **SERVICES OF THE SUBCONTRACTOR** The SUBCONTRACTOR shall employ only persons duly licensed by the State of Florida to perform the services required under the Agreement for which applicable Florida law requires a license, subject to prior approval of the SFRTA.
5. **HERZOG TRANSIT SERVICES, INC. ("Herzog")** the prime contractor of SFRTA, responsible for all Tri-Rail operations, equipment, facility and station maintenance.
6. **Florida Department of Transportation ("FDOT")** provides oversight and approximately 50 percent of SFRTA annual operating budget.
7. **UNIFORM COMMERCIAL CODE:** All applicable portions of the Florida Uniform Commercial Code shall govern agreements with SFRTA.
8. **DRUGFREE WORKPLACE:** SUBCONTRACTOR shall comply with the terms of Florida Law and the U.S. DOT regulations for Drugfree Workplace Requirements, 49 C.F.R. Part 29, Subpart F.
9. **CONFLICT OF INTEREST:** Subcontractor shall not enter into an agreement or arrangement in connection with the Project or any property included or planned to be included in the Project, with any officer, director or employee of SFRTA, Herzog, Stiles, or any business entity of which the officer, director or employee or the officer's, director's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer, director or employee or the officer's director's or employee's spouse or child, or any combination of them, has a material interest. Material interest means direct or indirect ownership of more than 5 percent of the total assets or capital stock of any business entity.
10. **PRIVACY:** SUBCONTRACTOR shall comply with the terms of the Privacy Act of 1974, 5 U.S.C. Section 552a, if applicable. A violation of this Act may involve the imposition of criminal penalties
11. **PUBLIC ENTITY CRIMES:** Pursuant to Section 287.133, Florida Statutes, a person or affiliate who has been placed on the State's convicted CONTRACTOR list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a firm, supplier, sub CONTRACTOR, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being on the convicted SUBCONTRACTOR list.
12. **BUY AMERICA:** The Buy America requirements apply to all contracts for construction, the acquisition of goods, or the acquisition of rolling stock that are valued at more than \$100,000. The Contractor agrees to comply with 49 USC 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless 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 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 USC 5323(j)(2)(C) and 49 CFR 661.11.

GENERAL TERMS AND CONDITIONS

Rolling stock must be assembled in the United States and have a 60 percent domestic content. The Contractor shall be responsible for ensuring that lower tier contractors and subcontractors are in compliance with these requirements.

13. **RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION:** A Claim is a demand or assertion by one of the parties seeking an adjustment or interpretation of the terms of the Contract Documents, payment of money, extension of time or other relief with respect to the terms of the Contract Documents. The term "Claim" also includes other disputes and matters in question between Stiles and the Contractor arising out of or relating to the Contract Documents. The responsibility to substantiate a Claim shall rest with the party making the Claim.

Initial notice of Claims by the Contractor shall be made in writing to the Stiles Project Manager within forty-eight (48) hours after the first day the Contractor is aware of the event giving rise to such Claim, or else the Contractor shall be deemed to have waived the Claim. Written supporting data shall be submitted to the Stiles Project Manager within fifteen (15) calendar days after the occurrence of the event unless Stiles grants additional time in writing, or else the Contractor shall be deemed to have waived the Claim. All Claims shall be priced so as to compensate the Contractor for its actual and direct labor, material and equipment costs and extended general conditions expenses (all costs must have occurred prior to the date of the claim and be substantiated by receipts), together with markup, as set forth below.

The Stiles Project Manager shall render a decision regarding any Claims within thirty (30) days of receipt of Contractor's initial notice of Claim. The Contractor shall proceed diligently with its performance as directed by Stiles, regardless of any pending Claim, unless otherwise agreed to by Stiles in writing. Stiles shall continue to make payments in accordance with the Contract Documents during the pendency of any Claim. Prior to the initiation of any legal action or proceeding permitted by these Contract Documents to resolve Claims between the parties, the parties shall first make a good faith effort to resolve any such Claim. If the Contractor fails to first submit its Claim to the Claim resolution process in this Section 14, the Contractor forever waives its right to bring any legal action against Stiles for breach of contract arising from the Claim.

Any litigation between Stiles and the Contractor under this section, shall be brought, maintained and pursued only in the appropriate State courts of the State of Florida; and SFRTA and the Contractor each hereby waive and renounce any and all rights and options which they, or either of them, have or might have to bring or maintain any such litigation or action in the Federal Court system of the United States or in any United States Federal District Court. Venue of any such litigation between the Stiles and the Contractor shall lie and be only in the appropriate State courts of in the State of Florida's Seventeenth Judicial Circuit in and for Broward County, Florida, or the United States Federal District Court for the Southern District of Florida. Stiles and the Contractor consent and submit to the jurisdiction of any such court and agree to accept service of process outside the State of Florida in any matter to be submitted to any such court pursuant hereto. STILES AND THE CONTRACTOR EXPRESSLY WAIVE ALL RIGHTS TO TRIAL BY JURY.

14. **LOBBYING:** Contractors and all subcontractors 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 use 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 SFRTA. Contractor should contact SFRTA for the appropriate certification or retrieve a copy from the FTA Best Practices Manual at <http://www.fta.dot.gov/library/admin/BPPM/>.
15. **CLEAN AIR:** 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. Contractor agrees to report each violation to Stiles and understands and agrees that Stiles will, in turn, report each violation to SFRTA as required to assure notification to FTA and the appropriate EPA Regional Office. Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

GENERAL TERMS AND CONDITIONS

16. **CLEAN WATER:** 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. Contractor agrees to report each violation to Stiles and understands and agrees that Stiles will, in turn, report each violation to SFRTA as required to assure notification to FTA and the appropriate EPA Regional Office. Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.
17. **FLY AMERICA:** In the performance of Contracts that utilize FTA participation in the cost of international air transportation, Contractor agrees to comply with 49 U.S.C. § 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 C.F.R Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S.-Flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

18. **FTA 17 CONSTRUCTION EMPLOYEE PROTECTIONS – DAVIS-BACON ACT (Awards that exceed \$2,000)**

(1) Minimum wages - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. (ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination.

The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met: (1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated

GENERAL TERMS AND CONDITIONS

for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification. (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof. (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

GENERAL TERMS AND CONDITIONS

(2) Withholding - The SFRTA 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 the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the SFRTA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the SFRTA for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;
- (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

GENERAL TERMS AND CONDITIONS

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the

GENERAL TERMS AND CONDITIONS

wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland "Anti-Kickback" Act requirements - The contractor shall comply with the requirements of Section 1 of the Act, as amended, 18 U.S.C. § 874; Section 2 of the Act, as amended, 18 U.S.C. § 3145; and U.S. DOL regulations "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States," 29 CFR Part 3, which are incorporated by reference in this contract.

(6) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

19. **CONSTRUCTION EMPLOYEE PROTECTIONS – CONTRACT WORK HOURS & SAFETY STANDARDS ACT (for construction contracts that exceed \$100,000):**

(1) 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.

(2) 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 therefore shall be liable for the unpaid

GENERAL TERMS AND CONDITIONS

wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section. (3) Withholding for unpaid wages and liquidated damages - The SFRTA 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. (4) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (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.

20. CONSTRUCTION EMPLOYEE PROTECTIONS – COPELAND ANTI-KICKBACK ACT:

Compliance with Copeland “Anti-Kickback” Act (“Act”) requirements - The contractor shall comply with the following requirements:

(a) Section 1 of the Act, as amended, 18 U.S.C. § 874, applies to all Contracts:

(i) Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined under this title or imprisoned not more than five years, or both;

(b) Section 2 of the Act, as amended, 18 U.S.C. § 3145, applies to construction and repair Contracts exceeding \$2,000:

(i) In General.—The Secretary of Labor shall prescribe reasonable regulations for contractors and subcontractors engaged in constructing, carrying out, completing, or repairing public buildings, public works, or buildings or works that at least partly are financed by a loan or grant from the Federal Government. The regulations shall include a provision that each contractor and subcontractor each week must furnish a statement on the wages paid each employee during the prior week.

(ii) Application.— The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001; and

(c) U.S. DOL regulations “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States,” 29 CFR Part 3, which are incorporated by reference in this contract.

(d) For additional requirements of the Act not specified in this Article, see preceding Article FTA 17 – Construction Employee Protections – Davis Bacon Act.

21. BONDING FOR CONSTRUCTION ACTIVITIES EXCEEDING \$100,000 – BID BOND REQUIREMENTS

A Performance and Payment Bonds for the Contract Amount shall be required.

All bonds shall be on forms, included in the attached Exhibits, and shall be executed as surety by a corporation or corporations acceptable to SFRTA, which is admitted and authorized to issue surety bonds in the State of Florida.

The bonds must allow for all alterations, extensions of time, Extra Work, and other changes authorized by the Contract Documents to be made without securing the consent of the surety or sureties on the Contract Amount while continuing to provide security for such Work. Full compensation for furnishing the bonds is included in the Contract Amount and no separate payment will be made by SFRTA.

GENERAL TERMS AND CONDITIONS

21.1 Performance Bond

The Contractor shall provide a Performance Bond in an amount of not less than 100% of the annualized Contract Amount. The Performance Bond shall guarantee the Contractor's faithful performance of the Agreement in compliance with all terms, conditions and requirements specified in the Contract Documents. It shall also guarantee any excess payments SFRTA may make in order to complete the Work in the event of Contractor's default. The Performance Bond shall remain in full force and effect until completion of the Work.

22. **SEISMIC SAFETY:** If this Contract for professional services involves the design of a new building or addition to an existing building, the Contractor agrees that any such new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The Contractor also agrees to ensure that all work performed under this Contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.
23. **ENERGY CONSERVATION:** Contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan, if any, issued in compliance with the Energy Policy and Conservation Act.
24. **RECYCLED PRODUCTS:** The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 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.
25. **ADA ACCESS:**

A. SFRTA must comply with: 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities; all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; the Americans with Disabilities Act of 1990 (ADA), as amended; 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; and the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities.

B. All deliverable items provided by the Contractor for SFRTA under this Contract shall comply with the above-referenced laws as well as all other applicable federal, state and local regulations and directives and any subsequent amendments thereto.
26. **INVOICES AND PAYMENT:** SUBCONTRACTOR shall submit invoices for Work completed at intervals of not more than once a month. All invoices are due by the 5th of the month following the date of service. SUBCONTRACTOR's invoice shall be in a form determined by the Station Maintenance Manager and shall show a complete breakdown of the Work components: hours expended, hourly billing rates, and reimbursable expenses for which SUBCONTRACTOR expects to be paid, together with such supporting evidence as may be required by the Station Maintenance Manager. Stiles shall pay the SUBCONTRACTOR all invoices or items set forth in such invoices which are not in dispute within forty-five (45) days after receipt of the invoices. SFRTA is exempt from Federal Excise and Sales taxes and SUBCONTRACTOR shall not include any charges representing such charges on any invoices which are submitted. Invoices received without sufficient information will be returned to the SUBCONTRACTOR for additional details.
27. **EXTRA WORK:** Work that the subcontractor considers as Extra Work, i.e. outside of the contract scope, must be approved, in writing, prior to being performed and/or invoiced for. Extra Work that is performed without prior authorization will not be processed for payment.

GENERAL TERMS AND CONDITIONS

28. **DELIVERY:** SUBCONTRACTOR shall comply with the schedule(s) as specified in the Agreement. In the event SUBCONTRACTOR is unable to comply with the schedule(s) because of circumstances beyond the control of SUBCONTRACTOR, it shall be the responsibility of SUBCONTRACTOR to notify Stiles, in writing, whenever a delay is anticipated or experienced, and to inform Stiles of all facts related to the delay. Within 2 business days of such a delay notice, the SUBCONTRACTOR will provide a schedule that details how lost time will be made-up, and the original contract timeline achieved. SUBCONTRACTOR agrees to allow SFRTA the right to inspect and test work or products, at the site or source, to ensure they meet contract specifications.
29. **WARRANTY:** In the event that materials and/or workmanship supplied under the Agreement is determined to be defective within one (1) year from the date of beneficial occupancy or proof of function, all costs associated with repair or replacement, including labor, shipping, and other charges shall be borne by the SUBCONTRACTOR under the warranty provision of the Agreement.
30. **TERMINATION FOR CONVENIENCE OR DEFAULT:** Stiles may terminate the Agreement, in whole or in part, at any time by written notice to the SUBCONTRACTOR when it is in Stiles' best interest. The SUBCONTRACTOR shall be paid its costs, including agreement close-out costs, and profit on work performed up to the time of termination. The SUBCONTRACTOR shall promptly submit its termination claim to Stiles to be paid to the SUBCONTRACTOR. If the SUBCONTRACTOR has any property in its possession belonging to Stiles or SFRTA, the SUBCONTRACTOR will account for the same, and return or dispose of it in the manner directed by Stiles. If the SUBCONTRACTOR fails to perform in the manner called for in the Agreement, or if the SUBCONTRACTOR fails to comply with any other provisions of the Agreement, Stiles may terminate the Agreement for default. Termination shall be effected by serving a notice of termination on the SUBCONTRACTOR setting forth the manner in which the SUBCONTRACTOR is in default. The SUBCONTRACTOR will only be paid the contract price for services performed in accordance with the manner of performance set forth in the Agreement.
31. **INSURANCE:** The below is intended to be a summary of the **minimum** insurance coverages and limits required of Subcontractor. Subcontractor shall refer to the Agreement for a complete description of the required insurance coverages, limits, and endorsements.

Stiles reserves the right to reject coverage from any company not acceptable to Stiles and to require Subcontractor to obtain coverage from another source if awarded the Work. Self-insurance is not acceptable under the terms of the Agreement.

31.1 SUBCONTRACTOR shall furnish a Certificate of Insurance (including a copy of the declaration page(s), and the required endorsements with all the coverages outlined herein and required per Agreement), to Stiles within ten (10) business days of SUBCONTRACTOR's receipt of a fully executed Agreement and prior to commencement of work. If the insurance certificate is received within the specified time frame, but not in the manner prescribed, SUBCONTRACTOR shall be verbally notified of such deficiency and shall have an additional three (3) business days to submit a corrected certificate to Stiles. If SUBCONTRACTOR fails to submit the required insurance certificate in the manner prescribed within seven (7) business days from the receipt of a fully executed Agreement, the SUBCONTRACTOR shall be in default, and the Agreement shall be immediately terminated. Under such circumstances, SUBCONTRACTOR may be prohibited from submitting future Bids to Stiles.

Such policy or policies shall be issued by insurers of financial responsibility that are rated "A" or better by Best's Insurance Report, "AA" or better by Standard & Poor's Insurance Rating Service, or "AA" or better by Moody's Investors Service and authorized to transact business in the State of Florida or an eligible surplus lines insurer in good standing with the Florida Insurance Commissioner's Office. Stiles reserves the right to reject as inadequate any insurance coverage provided by an insurance company that is rated less than the ratings above. ALL POLICIES MUST BE ENDORSED TO PROVIDE STILES WITH THIRTY (30) DAYS, WRITTEN NOTICE OF CANCELLATION, NON-RENEWAL AND/OR RESTRICTION AND TEN (10) DAYS NOTICE OF NON-PAYMENT. IT SHALL BE STATED ON THE INSURANCE CERTIFICATE THAT THIS COVERAGE IS PRIMARY TO ALL OTHER COVERAGE STILES, SFRTA, HERZOG OR FDOT MAY POSSESS. POLICY(IES) MUST ALSO BE ENDORSED WITH A WAIVER OF SUBROGATION IN FAVOR OF STILES, SFRTA, HERZOG, AND FDOT. IN ADDITION, ALL LIABILITY INSURANCE POLICIES, EXCEPT FOR EMPLOYER'S

GENERAL TERMS AND CONDITIONS

LIABILITY AND IF APPLICABLE PROFESSIONAL LIABILITY, SHALL NAME STILES, SFRTA, HERZOG AND FDOT AS ADDITIONAL INSURED.

SUBCONTRACTOR shall submit proof of insurance on the Standard "ACORD" 25 Certificate of Liability Insurance form and Acord form 101, Additional Remarks Schedule, if necessary, along with a copy of the insurance declaration page(s) and the required endorsement pages.

31.2 Additional Insured. Stiles Corporation d/b/a Stiles Property Management, South Florida Rail Transit Authority, Herzog Transit Services, Inc. and Florida Department of Transportation, and their respective officers, directors, agents, shareholders, employees, successors, sureties and any other parties which Contractor is required under the Subcontract Documents shall each be an "Additional Insured" and collectively "Additional Insureds" under all policies, except for Workers' Compensation and if applicable Professional Liability. In all instances where the SUBCONTRACTOR's insurance is required to name parties as Additional Insureds, a copy of the Additional Insured Endorsement(s) shall be attached to the Certificate of Insurance. The additional insured coverage shall be primary to the Additional Insureds and not contributing with any other insurance or similar protection available to the Additional Insureds, whether other coverage is primary, contributing or excess.

31.3 The Subcontractor and each sub-subcontractor (if any) who may be engaged by the Subcontractor shall maintain the following insurance in the amounts as indicated below and on the Agreement, which can be achieved through a combination of primary and umbrella/excess liability policies:

(a) Commercial General Liability on an occurrence basis with limits not less than \$1,000,000 including coverage for premises operations, independent contractors, products and completed operations, broad form property damage, personal injury, blanket contractual liability, and if applicable to the work property damage arising out of the XCU hazards. This policy shall be endorsed to provide additional insured status to the Additional Insureds including products and completed operations using additional insured endorsement CG-20 10 (11 85) or CG-20 10 (10 01) in combination with CG 20 37 or their equivalent.

(b) Comprehensive Automobile Liability policy including owned, hired and non-owned automobiles with limits not less than of \$500,000. SUBCONTRACTOR shall obtain an endorsement to its Automobile Liability policy providing additional insured status to the Additional Insureds stated herein above and on the Agreement.

(c) Workers' Compensation and Employer's Liability – Workers' Compensation insurance in amounts as may be required by applicable statute in the state in which the Property is located and Employer's liability coverage in an amount no less than \$100,000.

(d) **Excess/Umbrella Liability** - The Umbrella/Excess liability policy(ies) shall be written with limits as indicated in Exhibit B of the Subcontract Documents and shall be endorsed to be following form of the Commercial General Liability, Comprehensive Automobile Liability, and Employer's Liability coverages.

32. **MISCELLANEOUS:** Any deductibles which may occur as part of any policy shall be borne by the Subcontractor. Any exclusion to work within fifty feet (50') of any railroad track shall be deleted from all insurance policies. SUBCONTRACTOR understands and agrees that if additional cost is associated with removing this language from their policy, it will be done at the SUBCONTRACTORS sole cost and expense.

The Contractor reserves the right to require additional insurance coverages, depending on the scope of work such as but not limited to Professional Liability, Pollution Liability, Crane Insurance and Property Insurance. The SUBCONTRACTOR shall refer to the Subcontract Documents for a complete description of the required insurance coverages, limits, and endorsements.

33. **REALPAGE (COMPLIANCE DEPOT):** SUBCONTRACTOR shall be required to enroll and complete the approval process with RealPage, Contractor's third-party Compliance Program Administrator as part of the solicitation

GENERAL TERMS AND CONDITIONS

process. SUBCONTRACTOR must reach the "APPROVED" status to be awarded a contract. This process can take more than a week to complete and SUBCONTRACTOR is responsible for ensuring their approval status through Compliance Depot.

34. **FORCE MAJEURE:** Should the Subcontractor be obstructed or delayed in the prosecution of or completion of the work as a result of unforeseeable causes beyond the control of Subcontractor, and not due to its fault or neglect, including, but not restricted to, acts of God or of the public enemy, acts of government, fires, floods, epidemics, quarantine regulation, strikes, lockouts, unusually severe weather conditions not reasonably anticipated, the Subcontractor shall notify Stiles in writing within forty-eight (48) hours after the commencement of such delay, stating the cause or causes, or be deemed to have waived any right which the Subcontractor may have had to request a time extension.
35. **SAFETY DATA SHEET:** If any chemicals, materials, or products containing toxic substances, as defined by Chapter 442, Florida Statutes, or any local, state or federal statutes or regulations, are contained in the products used on site or incorporated into the construction by the SUBCONTRACTOR or any of its sub-Subcontractors, the SUBCONTRACTOR shall (i) provide to Stiles a Safety Data Sheet at the time of each delivery or prior to each new use of such product, and (ii) provide proof of Pollution Liability as required in the Subcontractor Documents. Contractor reserves the right to deny the used of any material deemed to toxic or hazardous for use on or at the subject property.
36. **HIALEAH YARD SAFETY RULES:** In the event the Agreement relates to any work to be conducted at the SFRTA Hialeah Yard Facility, a live train yard, the following provision shall apply. The SUBCONTRACTOR must be available for a mandatory general safety briefing before beginning any work activity, for all personnel on the project. All workers will be required to be certified in 49 CFR 214 Roadway worker protection rules prior to commencement of work. Safety rules within the yard are established and enforced by the SFRTA MOE Subcontractor, Herzog Transit Services. All safety rules directed by Herzog Transit Services will be observed. Work must be performed under the guidance of an SFRTA Employee in charge of track safety. Railroad tracks in and around the engine house must not be fouled without prior permission from the Herzog Transit Services engine house supervisor. All debris must be removed from the job site daily to ensure a neat work environment. Also, access to the Hialeah Yard is via an electronic entry gate. Email Stationmaint@stiles.com for access to the Yard.

An initial training course will be provided to the subcontractor's employees prior to the start of the project. Should the subcontractor change the workforce employed on the project, the subcontractor will be responsible for the costs of additional training. Subcontractor personnel MAY NOT perform work on the subject property before they have taken, and passed, the appropriate safety course.

37. **NOTICES:** All notices required or made pursuant to the Agreement by Subcontractor to Stiles shall be in writing and may be given either (i) by mailing same by United States mail with proper postage affixed to the delivery package, certified, return receipt requested, or (ii) by sending the notice by Federal Express, Express Mail, Airborne, Emery, Purolator or other expedited mail or package delivery, (iii) by hand delivery to the appropriate address, or (iv) by email with confirmation copy to be mailed. Notices required shall be directed to the Subcontractor at the address stated in the Agreement. Notices from Subcontractor should be sent to the Attention of Stiles Station Maintenance Manager. Either party may change its address by giving written notice to the other party in accordance with the requirements of this Section and of the Agreement.