

STANDARD PROJECT AGREEMENT

Between

THE CITY OF SUNRISE

And

CRAIG A. SMITH & ASSOCIATES, LLC

For

Project Agreement Number: C 25-01-03-MS

**PROFESSIONAL ENGINEERING SERVICES FOR
THE JOSHLEE BOULEVARD IMPROVEMENTS PROJECT**

This Standard Project Agreement (hereinafter referred to as the "Agreement" or "Project Agreement") is made by and between THE CITY OF SUNRISE, FLORIDA, a Florida municipal corporation, (hereinafter referred to as "City"), and Craig A. Smith & Associates, LLC a Florida Limited Liability Company authorized to do business in the State of Florida (hereinafter referred to as "Consultant"), whose principal place of business is Boca Raton, Florida for services described below to be rendered for the following Project:

**PROFESSIONAL ENGINEERING SERVICES FOR
THE JOSHLEE BOULEVARD IMPROVEMENTS PROJECT**

This Agreement shall be effective on the date it is executed by the last party to execute it. The City and the Consultant hereby agree as follows:

SECTION 1 INCORPORATION OF REQUEST FOR QUALIFICATIONS

- 1.1 All terms and conditions of the City **Request for Qualifications ("RFQ") No. 25-01-03-MS** and Consultant's Response submitted on October 10, 2025, are incorporated within this Agreement by reference and made part hereof (the "Response to RFQ"). Based upon the representations of the Consultant in the Response to RFQ, which representations the City has relied upon, the City selected the Consultant to provide said Professional Engineering Services for the Joshlee Boulevard Improvements project.
- 1.2 The Consultant is willing and able to perform such professional services for the City within the terms and conditions set forth in this Agreement, the RFQ and the Response to the RFQ.

SECTION 2 CONSULTANT'S BASIC DUTIES TO CITY

- 2.1 By executing this Agreement, the Consultant represents to the City that the Consultant is professionally qualified to act as the Consultant for the Project (hereinafter referred to as

“the Project”) and is licensed to practice engineering by all public entities having jurisdiction over the Consultant and the Project. The Consultant further represents to the City that the Consultant will maintain all necessary licenses, or other authorizations necessary to act as Consultant for the Project until Consultant’s duties hereunder have been completed. The Consultant shall be responsible for providing all necessary subconsultants required for the successful completion of the work as outlined in EXHIBIT “1,” Scope of Services. The Consultant assumes full responsibility to the City for the improper acts, negligence, and omissions of its subconsultants and of all others employed or retained by the Consultant in connection with the Project.

2.2 Execution of this Agreement by the Consultant constitutes a representation that the Consultant has become familiar with the Project site and the local conditions under which the Project is to be implemented.

2.3 THIRTY PERCENT DESIGN DOCUMENTS

2.3.1 The Consultant shall review and examine the information, including any desired schedule and budgetary requirements, furnished by the City to understand the requirements of the Project and shall review its understanding of such requirements with the City.

2.3.2 The Consultant shall furnish to the City a preliminary written evaluation of such information in light of any Project budget requirements.

2.3.3 The Consultant shall review and discuss with the City any alternative approaches to design and construction of the Project.

2.3.4 The Consultant shall prepare and submit to the City for its review 30% design documents consisting of drawings and other documents illustrating the scale and relationship of proposed Project components. The Consultant shall be responsible for furnishing a legal description and any necessary survey(s) of the site, including, as may be reasonably required, grades and lines of streets, alleys, pavements and adjoining structures, rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings and other improvements; and information concerning available service and utility lines above and below grade, including inverts and depths.

2.3.5 The Consultant shall submit to the City an estimate of probable construction costs for the Project.

2.3.6 If requested by the City, during construction, the Consultant shall maintain for the City a record of deviations on the basis of information compiled and furnished, in part, by others, from the work as shown in the drawings and specifications and as actually installed. Before final payment by the City, the Consultant shall revise any drawings and specifications affected by such deviation so that all such documents shall show the work actually installed. A digital drawing or approved equal of the final certified record drawings shall be submitted to the City.

2.4 SIXTY PERCENT DESIGN DOCUMENTS

2.4.1 Based on the 30% design documents and any adjustments to that design, the proposed schedule, or Project budget authorized by the City, the Consultant shall prepare and

submit to the City for its review, 60% design documents consisting of drawings and other documents to fix and describe the size and character of the Project as to civil, architectural, structural, mechanical and electrical systems; landscape architectural and irrigation design; materials and such other elements as may be appropriate.

2.4.2 The Consultant shall review its estimate of probable construction costs, shall make any appropriate revisions thereto and furnish same to the City.

2.5 NINETY PERCENT DESIGN DOCUMENTS

2.5.1 Based on the 60% design documents and any adjustments to that design, the proposed schedule, or Project budget authorized by the City, the Consultant shall prepare and submit to the City for its review, 90% design documents consisting of drawings and other documents to fix and describe the size and character of the Project as to civil, architectural, structural, mechanical and electrical systems; landscape architectural and irrigation design; materials and such other elements as may be appropriate.

2.5.2 The Consultant shall review its estimate of probable construction costs, shall make any appropriate revisions thereto and furnish same to the City.

2.5.3 The Consultant shall assist the City in preparing and filing all documents necessary to obtain the approval of all authorities having jurisdiction over the Project.

2.6 ONE HUNDRED PERCENT DOCUMENTS

2.6.1 Based on the 90% design documents and any adjustments to that design, the proposed schedule, or Project budget authorized by the City, the Consultant shall prepare 100% design documents consisting of drawings and specifications setting forth in detail the requirements for construction of the Project. Such Construction Documents shall be project specific and shall be accurate, coordinated and adequate for construction, and shall be in conformity and comply with all applicable law, codes, standards, and regulations. Products specified for use shall be readily available unless specifically authorized by the City.

2.6.2 The Consultant shall continue to assist the City in preparing and filing all documents necessary to obtain the approval of all authorities having jurisdiction over the Project.

2.6.2 The Consultant shall review its most recent estimate of probable construction costs, shall make any appropriate revisions thereto and furnish same to the City.

2.6.3 The Consultant shall be responsible for the preparation of bid packages to be made available for distribution to all prospective bidders via the City's electronic procurement system. Such packages shall include electronic copies of all relevant plans, specifications, and other documents upon which the bidding is to be based. All electronic documents shall be provided in an Americans with Disabilities Act (ADA) compliant format (except for plans, only the descriptive list will be provided in this format). The City reserves the right to elect paper copies if deemed necessary and, if elected, the Consultant shall make copies of complete bid packages available at its office nearest to the Project site during normal business hours for all prospective bidders. The Consultant shall be reimbursed by the City for the actual cost of reproduction of the documents contained

within the bid package as a reimbursable item pursuant to the terms of Section 6.2 of this Agreement.

- 2.6.4 In the event that there are amendments to the bid packages, amendments to any of the documents contained with the bid packages, or any clarifications issued during the bidding process, the Consultant shall prepare for the City's approval written addenda as appropriate to interpret, clarify or expand the bidding documents. The Consultant shall make such documents available to all prospective bidders in a manner acceptable to the City, and shall be reimbursed for the actual costs of reproduction at the same rate specified in Section 2.6.3. There shall be no additional charges for amendments or clarifications other than as provided in Section 2.6.3.
- 2.6.5 The Consultant shall coordinate with the City during the bidding process and be available to address bidders' questions and comments at any time during the bidding process. The Consultant shall attend the pre-bid meeting, which will be held at a location as specified by the City.
- 2.6.6 The Consultant shall be available as necessary to assist the City in the evaluation of all bids received for determination of compliance with the bidding requirements. The Consultant shall not be responsible for performing any investigations or reference checks regarding bidders, nor shall it be responsible for determining whether a bid is responsive or a bidder is responsible; however, the Consultant shall assist the City as necessary in making such determination.
- 2.6.7 The Consultant will investigate, study, and analyze any proposed substitutions of materials or equipment and shall advise the City with respect to same.

2.7 ADMINISTRATION OF CONSTRUCTION

- 2.7.1 The Consultant shall perform those duties and discharge those responsibilities set forth herein in Sections 2.7.2 through 2.7.13. Furthermore, the Consultant shall perform and be responsible for all services requested of the Consultant by the City relating to the interpretation and implementation of the Consultant's drawings, specifications, or other Construction Documents or other contract documents prepared by the Consultant.
- 2.7.2 The Consultant shall represent the City during construction and shall facilitate all instructions and other appropriate communications between the City and the Contractor, which shall be communicated through the Consultant. The Consultant shall act on behalf of the City only to the extent provided herein and in the Construction Contract.
- 2.7.3 Upon receipt, the Consultant shall carefully review and examine the Contractor's Schedule of Values, together with any supporting documentation or data that the City or the Consultant may require from the Contractor. The purpose of such review and examination will be to protect the City from an unbalanced Schedule of Values that allocates greater value to certain elements of the work than is indicated by the supporting documentation or data or, than is reasonable under the circumstances. If the Schedule of Values is not found to be appropriate, or if the supporting documentation or data is deemed to be inadequate, and unless the City directs the Consultant to the contrary in writing, the Schedule of Values shall be returned to the Contractor for revision or supporting documentation or data. After making such examination, if the Schedule of Values is found to be appropriate as submitted, or if necessary, as revised, the Consultant shall sign the

Schedule of Values, thereby indicating its informed belief that the Schedule of Values constitutes a reasonable, balanced basis for payment of the Contract Price to the Contractor. The Consultant shall not sign such Schedule of Values in the absence of such belief unless directed to do so, in writing, by the City.

- 2.7.4 The Consultant shall observe the work of the Contractor on a periodic basis. The purpose of such observations will be to determine the quality, quantity and progress of the work in comparison with the requirements of the Construction Documents and Construction Contract. In making such observations, the Consultant shall exercise care to protect the City from defects or deficiencies in the work from unexcused delays in the schedule and from overpayment to the Contractor. Following each such site visit, the Consultant shall submit a written report of such observations, together with any appropriate comments or recommendations, to the City. The Consultant shall not be responsible for any construction means, methods, sequences, or procedures for performing any construction activities.
- 2.7.5 The Consultant shall determine amounts owed to the Contractor based upon observations of the work as required in Subparagraph 2.7.4, evaluations of the Contractor's rate of progress in light of the remaining Contract Time and upon evaluations of the Contractor's Applications for Payment, and shall issue Certificates for Payment to the City in such amounts.
- 2.7.6 The issuance of a Certificate for Payment shall constitute a representation by the Consultant to the City that the Consultant has made an observation of the work as provided in Subparagraph 2.7.4, that the work has progressed to the level indicated, that the quality of the work meets or exceeds the requirements of the Construction Contract and that to the best of the knowledge, information and informed belief of the Consultant, the Contractor is entitled to payment of the amount certified; however, the issuance of a Certificate of Payment shall not constitute a representation that the Consultant has made an examination to ascertain how the Contractor has used the monies paid by the City.
- 2.7.7 The Consultant shall be the initial interpreter of the requirements of the drawings and specifications and the judge of the performance thereunder by the Contractor. The Consultant shall render written or graphic interpretations necessary for the proper execution or progress of the work with reasonable promptness on request of the Contractor.
- 2.7.8 The Consultant shall reject work that does not conform to the Construction Documents unless directed by the City, in writing, not to do so. If directed by the City not to reject work, the City shall be responsible for the results of such direction. The Consultant shall have the authority to reject work that affects public or personnel safety. Whenever, in the Consultant's opinion, it is necessary or advisable, the Consultant shall require special inspection or testing of the work in accordance with the provisions of the Construction Contract whether or not such work is fabricated, installed or completed.
- 2.7.9 The Consultant shall review and take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples. Appropriate action by the Consultant of the Contractor's submittal shall constitute the Consultant's representation to the City that such submittal is in conformance with the Construction Documents and Construction Contract, but does not hold the Consultant responsible for the accuracy and completeness of details such as dimensions and quantities, or for substantiating

instruction for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Construction Documents. Such action shall be taken with reasonable promptness so as to cause no delay to the Contractor of the Project.

- 2.7.10 The Consultant shall review, and advise the City, concerning proposals and requests for Change Orders from the Contractor. The Consultant shall prepare Change Orders for the City's approval and execution in accordance with the Construction Contract, and shall have authority to order, by Field Order, minor changes in the work not involving an adjustment in Contractor's Contract Price or an extension of Contractor's Contract Time.
- 2.7.11 The Consultant shall conduct a site visit to determine the date of Substantial Completion and the date of Final Completion. As part of that process, Consultant shall receive and forward to the City for the City's review all written warranties and related documents and operating manuals required by the Construction Contract. Contractor shall issue a final Certificate for Payment when called for by the Construction Contract.
- 2.7.12 The Consultant shall, without additional compensation, promptly correct any errors, omissions, deficiencies, or conflicts in its plans and specifications.
- 2.7.13 The Consultant shall visit the site as needed but not less than one time per month, including site visits for verification of the Contractor's monthly pay request, to observe the entire construction operation, for the term of construction as noted in Section 2.8.1. A report outlining the details of each site visit shall be furnished to the City within three (3) days of the required site visit. The City must be informed of any site visits, so that they have the opportunity to be included in the visit.

2.8 ADDITIONAL SERVICES

The following services of the Consultant are not included in Sections 2.3 through 2.7, nor in EXHIBIT "1" - Scope of Services. Nevertheless, the Consultant shall provide such services as related to the Project if authorized in writing by the City prior to the performance or furnishing of same, and, unless otherwise specified in this Agreement, said services shall be paid for by the City as provided hereinafter.

- 2.8.1 Providing services to perform an extraordinary examination or investigation of existing conditions or to make measured drawings, or to verify the accuracy or other information provided by the City.
- 2.8.2 Making revisions in drawings, specifications or other documents when such revisions are inconsistent with written direction by the City previously given, are required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents and not reasonably anticipated, or are due to other causes not within the control or responsibility of the Consultant, either in whole or in part.
- 2.8.3 Preparing drawings, specifications and supporting data in connection with Change Orders, provided that such Change Orders are issued by the City due to causes not within the control or responsibility of the Consultant, either in whole or in part.

2.8.4 Providing services concerning repair or replacement of work damaged by fire or other cause during construction provided that such services are required by causes not the responsibility of the Consultant, either in whole or in part.

2.8.5 Providing services made necessary solely by the default of the Contractor or defects or deficiencies in the work of the Contractor.

2.9 SERVICE SCHEDULE

2.9.1 The Consultant shall perform its services in accordance with agreed upon schedule. The Consultant shall submit for the City's approval a schedule for the performance for the Consultant's services that shall include allowance for time required for the City's review of submissions and for approvals of authorities having jurisdiction over the Project. The City shall review and approve or reject any schedules submitted by the Consultant within five (5) working days of said submittal. If, in the event that construction of the Project is suspended for more than thirty (30) days, the Consultant shall also suspend Construction Administration Services upon request of City. Any time spent on the Project at the request of the City or on the City's behalf during this suspension shall be additional services and shall be paid based on the Standard Hourly Rates - EXHIBIT "3" - Hourly Rates. The reasonable term of construction upon which the fees for Construction Administration Services in this Agreement are based, shall be extended to include the period of construction suspension. This schedule, when approved by the City, shall not, except for cause, be exceeded by the Consultant. In the event the City rejects any schedules submitted by the Consultant, the Consultant shall submit a revised schedule within forty-eight (48) hours of said rejection. Submission of a schedule acceptable to the City and to which the City makes no objection shall be a condition precedent for any payment to the Consultant.

2.9.2 Upon receipt of the Notification of Commencement and the fully executed Purchase Order, the Consultant shall commence services to the City on the Commencement Date, and shall continuously perform services to the City, without interruption, in accordance with the time frames set forth in the "Project Schedule," a copy of which is attached and incorporated into this Agreement as EXHIBIT "2." The number of calendar days from the Commencement Date, through the date set forth in the Project Schedule for completion of the Project or the date of actual completion of the Project, which ever shall last occur, shall constitute the Contract Time.

2.9.3 Liquidated Damages: The parties recognize and agree that certain events may cause the City to suffer losses that are by their nature uncertain, difficult to prove, and not ascertainable at the time this Agreement is entered into. The parties agree that certain breaches will cause Consultant to pay City liquidated damages resulting from the breach. **Liquidated damages shall not apply to delays that are excused due to circumstances outside the Consultant's reasonable control, including but not limited to: (i) natural disasters or acts of God; (ii) acts or omissions of the City; (iii) directives by the City to suspend, delay, or modify the Work; (iv) delays caused by jurisdictional agencies, permitting authorities, or utility owners, including but not limited to review cycles, coordination requirements, or permitting processes exceeding three (3) formal review cycles unless otherwise caused by Consultant error or omission; and (v) delays resulting from City-directed presentations, including but not limited**

to City Commission or advisory board review of conceptual, interim, or milestone submissions that extend beyond the durations reflected in the Project Schedule. In the event any excusable delay impacts the critical path of the Project Schedule, the Consultant shall be entitled to a corresponding equitable adjustment to the Project Schedule and associated milestone dates. Such adjustment shall be documented through a written change order or amendment mutually agreed upon by the City and Consultant. The Consultant shall promptly notify the City in writing upon becoming aware of any condition that may result in delay, including jurisdictional review delays, permitting extensions, or City-directed schedule impacts. Upon such notice, the parties shall cooperate in good faith to evaluate the impact and revise the Project Schedule as necessary to reflect the actual conditions affecting performance. In no event shall these liquidated damages be construed or deemed to constitute penalties. Unless otherwise excused by the City in writing, in the event that the Consultant fails to meet the Contract Time for completion of a particular milestone of service(s) as determined by the Project Schedule, the Consultant shall pay to the City the sum of dollars identified below per day for each and every calendar day of unexcused delay beyond the milestone completion date(s) identified below, until completion of the milestone:

Milestone 1: Tasks 1-3: Route Survey, GPR/EM Services, Soft Digs.....	\$100
Milestone 2: Task 4: Design Development.....	\$100
Milestone 3: Task 5: 30% Construction Drawings.....	\$100
Milestone 4: Task 5: 60% Construction Drawings.....	\$100
Milestone 5: Task 5: 90% Construction Drawings.....	\$100

2.9.4 No Damages for Delay: The Consultant shall not be entitled to any claim for damages including, but not limited to, loss of profits, loss of use, home office overhead expenses, equipment rental and similar costs on account of delays in the progress of the Project from any cause or national disaster or emergency, unusual delay in deliveries, unusual delay in procuring permits, differing site conditions, unavoidable casualties or other cause beyond the Consultant’s control, or by delay authorized by the City, or by other causes which the Consultant determines may justify delay. The Consultant’s sole recovery and remedy for any such delay shall be a reasonable extension of time and a revision to the Project Schedule as determined by the City. However, additional costs to the Consultant or delays in the Consultant’s performance caused by improperly timed activities shall not be the basis for granting a time extension. If the Consultant wishes to make a claim for an increase in time of performance, written notice of such claim shall be made to the City within three (3) working days after the occurrence of the event, or the first appearance of the condition giving rise to such claim. The City’s representative shall determine whether the Consultant is entitled to a time extension for the delay. The failure of the Consultant to give such notice shall constitute a waiver of any claim under this section.

2.9.5 Notwithstanding the provisions of Subparagraph 2.9.4, in the event that the Contractor fails to substantially complete the Project on or before the Substantial Completion date specified in the Construction Contract or the Contractor is granted an extension of the time to complete performance under the Construction Contract and the Consultant’s Contract

Administration Services are materially extended by the City as a direct result thereof and through no fault of the Consultant, the Consultant shall be entitled to additional compensation at the rates shown in EXHIBIT “3.” The amount of compensation due by the Consultant under this Subparagraph shall be pursuant to approved written Amendment to this Agreement.

2.10 PERSONNEL

2.10.1 The Consultant shall assign only qualified personnel to perform any service concerning the Project. At the time of execution of this Agreement, the parties anticipate that the following named individuals will perform those supervisory or primary functions indicated:

NAME	TITLE/FUNCTION
Stephen C. Smith, PE	Principal/QA/QC
Priscilla Morales, PE Engineer/Project Manager	Senior Supervising
Orlando Rubio, PE Engineer	Vice President/Stormwater
Daniel Shonk, PE	Supervising Engineer/Utilities
Al Caruso, EI	Project Engineer
Greg Giarratana	Senior Supervising Engineer
Johnathan Lash	Project Engineer
Robert Keener, PSM Mapper	Professional Surveyor and
James Driscoll Representative/Subsurface Utilities	Senior Field
Orland Marrufo	Senior CADD Technician
Juan Alvarez	CADD Technician

So long as the individuals named above remain actively employed or retained by the Consultant, they shall perform the functions indicated next to their names. Furthermore, the City reserves the right to reject any proposed substitution for any of the above-named individuals, and the City shall have the further right to require that any individual assigned to the Project by the Consultant be removed from the Project and reassigned for good cause.

SECTION 3 CITY’S BASIC DUTIES TO CONSULTANT

3.1 The City shall provide the Consultant with adequate information regarding the City’s requirements for the Project including any desired or required design or construction schedule, or both, and any budgetary requirements including fixed limit of construction

- cost, prior to the start of the Construction Documents portion of design, upon which the Consultant shall be entitled to rely.
- 3.2 The City shall review any documents submitted by the Consultant requiring the City's decision and shall render any required decision pertaining thereto in a timely fashion.
- 3.3 The City shall furnish structural, mechanical, chemical and other laboratory tests, inspections and reports as required by law or the Construction Contract.
- 3.4 If the City becomes aware of any fault or defect in the Project, nonconformance with the Construction Contract, or of any errors, omissions or inconsistencies in the drawings or specifications, prompt notice thereof shall be given by the City to the Consultant.
- 3.5 The City shall perform those duties set forth in Sections 3.1 through 3.4 as expeditiously as may reasonably be necessary for the orderly progress of the Consultant's services and of the work.
- 3.6 The City's review of any documents prepared by the Consultant or its subconsultants shall be solely for the purpose of determining whether such documents are generally consistent with the City's construction program and intent. No review of such documents shall relieve the Consultant of its responsibility for the accuracy, adequacy, fitness, suitability and coordination of its work product.

SECTION 4 CONSTRUCTION COSTS

- 4.1 If the cost of construction exceeds the cost agreed upon by the City by more than 5% of the lowest bona fide bid or negotiated proposal, the City may (1) give written approval of an increase in such fixed limit, (2) authorize rebidding or renegotiating of the Project, (3) terminate the Project and this Agreement in accordance herewith, or (4) cooperate in revising the Project scope or quality, or both, as required to reduce the construction cost. In the case of (4), the Consultant, without additional charge to the City, shall consult with the City and shall revise and modify the drawings and specifications as necessary to achieve compliance with the cost agreed upon by the City. Absent negligence on the part of the Consultant in making its estimates of probable construction cost, providing such modifications and revisions shall be the limit of the Consultant's responsibility arising from the establishment of such construction costs, and having done so, the Consultant shall be entitled to compensation for all other services performed, in accordance with this Agreement.

SECTION 5 BASIS OF COMPENSATION

- 5.1 The City shall compensate the Consultant for an amount not to exceed \$604,223.22 exclusive of authorized Reimbursable Expenses (\$609,223.22 inclusive of Reimbursable expenses, if authorized) based on services rendered pursuant to Sections 2.3 through 2.7 and **EXHIBIT "1,"** Scope of Services, of this Agreement by allocating the estimated percentage of work for each of the tasks set forth in Section 5.2. Billings for each task shall not exceed the amount allocated to each task.
- 5.2 Payment to the Consultant of the sum set forth in Section 5.1 shall be allocated based on the estimated percentage of work completed for each of the following tasks:

Task 1: Route Survey	\$35,950.00	6%
Task 2: Utility Locating (GPR/EM Services).....	\$6,400.00	1%
Task 3: Utility Test Holes (Soft Digs)	\$6,000.00	1%
Task 4: Conceptual Design Development.....	\$15,120.00	3%
Task 5: Complete Streets and Stormwater Design (30%, 60%, 90% Plans	\$170,900.00	28%
Task 6: Permitting Services	\$48,320.00	8%
Task 7: Contract Documents, Specifications, and Bidding Support....	\$13,320.00	2%
Task 8: Construction Observation Services (T&M Estimate).....	\$90,000.00	15%
Task 9: Shop Drawing Reviews	\$8,360.00	1%
Task 10: Engineering Services During Construction	\$21,060.00	3%
Task 11: Final Certifications	\$15,600.00	3%
Task 12: Electrical Engineering Services.....	\$19,975.00	3%
Task 13: Geotechnical Investigation	\$15,204.40	3%
Task 14: Landscape Architecture Services.....	\$86,500.00	14%
Task 15: Traffic Engineering Services	\$51,513.82	9%

5.3 Additional services of the Consultant as described in Section 2.8, if any, shall be compensated as follows:

See EXHIBIT “3” - Hourly Rates

5.4 Reimbursable Expenses as defined in Section 6 shall be reimbursed to the Consultant by the City as provided in Section 6.

5.5 If the scope of the Consultant’s services is changed materially through no fault of the Consultant, compensation due to the Consultant shall be equitably adjusted, either upward or downward.

SECTION 6 BILLING AND PAYMENTS TO CONSULTANT

6.1 Billing by the Consultant shall be in accordance with EXHIBIT “5” – Compensation and Method of Payment. Payments to the Consultant shall also be in accordance with EXHIBIT “5” and EXHIBIT “2” – Project Schedule of this Agreement.

6.2 REIMBURSABLE EXPENSES

6.2.1 Reimbursable Expenses shall mean expenses incurred by the Consultant and Sub-Consultant’s in the interest of the Project, as follows:

Not to exceed \$5,000 without prior written authorization by the City.

6.2.1.1 Reasonable expenses of: long-distance communications; mileage reimbursement in accordance with Section 2-2 of the Code of Ordinances of the City of Sunrise, Florida;

fees paid for securing approval of authorities having jurisdiction over the Project; actual cost of reproduction, postage and handling of drawings, specifications and other documents; renderings, models and mock-ups requested by the City; additional insurance coverage or limits, including professional liability insurance, requested by the City in excess of that required in the Request For Qualifications. The Consultant shall only be reimbursed for the direct cost of the item without additional mark-up. Costs for meals, snacks, and beverages are not considered a reimbursable expense.

SECTION 7 TERM

7.1 This Agreement shall commence on the date this instrument is fully executed by all parties and shall continue in full force and effect for **3 years**, unless otherwise terminated pursuant to Section 8.1 or 8.2, or other applicable sections of this Agreement. The City's Director of Utilities, in his sole discretion, may extend the term of this Project Agreement through written notification to the Consultant. Such extension shall not exceed two, one-year extensions. No further extensions of this Agreement shall be effective unless authorized by City code or City Commission action.

SECTION 8 TERMINATION

8.1 TERMINATION FOR CAUSE

8.1.1 This Agreement may be terminated by either party upon seven (7) days' written notice to the other should such other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event of a termination for cause, the Consultant shall be entitled to receive compensation for any work completed pursuant to the Agreement to the satisfaction of the City through the date of termination, less any amounts which the City reasonably deems necessary to withhold in order to correct any defects or deficiencies in the work performed by the Consultant. In no event shall the City pay for profit or overhead on work not performed.

8.2 TERMINATION FOR CONVENIENCE

8.2.1 This Agreement may be terminated by the City without cause upon ten (10) days' written notice to the Consultant. In the event of such a termination without cause, the Consultant shall be compensated for all services completed pursuant to this Agreement to the satisfaction of the City up to and through the date of termination, together with Reimbursable Expenses incurred. In such event, the Consultant shall promptly submit to the City its invoice for final payment and reimbursement which invoice shall comply with the provisions of Section 2.5 of EXHIBIT "5"- Compensation and Method of Payment.

8.2.2 Under no circumstances shall the City make payment of profit or overhead for work that has not been performed. Additionally, the City shall not make payment for the following items:

8.2.2.1 Anticipated profits or fees to be earned on uncompleted portions of the work;

8.2.2.2 Consequential damages;

8.2.2.3 Costs incurred in respect to materials, equipment or services purchased or work done in excess of reasonable quantitative requirements of this Agreement;

8.2.2.4 Expenses of Consultant due to the failure of Consultant or its subconsultants to discontinue the work with reasonable promptness after notice of termination has been given to the Consultant; and

8.2.2.5 Losses upon other contracts or from sales or exchanges of capital assets or Internal Revenue Code Section 1231 assets.

8.2.2.6 Damage or loss caused by delay.

8.3 Assignment Upon Termination. Upon termination of this Agreement, the work product of the Consultant shall become the property of the City and the Consultant shall within ten (10) working days of receipt of written direction from the City, transfer to either the City or its authorized designee, all work product in its possession, including but not limited to, designs, specifications, drawings, studies, reports and all other documents and data in the possession of the Consultant pertaining to this Agreement. Upon the City's request, the Consultant shall additionally assign its rights, title and interest under any subcontractor's agreements to the City. All work product provided under this Section shall be used solely for its intended purpose.

SECTION 9 SEVERABILITY

9.1 If any term or provision of this Agreement or its application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such terms or provisions to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

SECTION 10 TERMS AND GENERAL CONDITIONS

10.1 COMPENSATION AND PAYMENT

The City agrees to pay the Consultant compensation for the services provided for in this Agreement as outlined in EXHIBIT "3" - Hourly Rates and EXHIBIT "5" - Compensation and Method of Payment, which exhibits are attached to and incorporated in this Agreement. It is acknowledged and agreed to by Consultant that the dollar limitations set forth in this Project Agreement is a limitation upon, and describes the maximum extent of, City's obligation to reimburse Consultant for direct, non-salary expenses, but does not constitute a limitation upon Consultant's obligation to incur such expenses in the performance of services hereunder. If City requests Consultant to incur expenses not contemplated, Consultant shall notify the City's representative in writing and obtain their approval in writing prior to incurring such expenses. Nothing in this Agreement shall be construed to indicate that Consultant shall be obligated to perform services or to incur expenses that have not been authorized in writing by the City.

10.2 CITY'S RESPONSIBILITIES

10.2.1 Assist the Consultant by placing at its disposal all reasonably available information as may

be requested in writing by the Consultant and allow reasonable access to all pertinent information relating to the services to be performed by the Consultant.

10.2.2 Furnish to the Consultant, at the Consultant's request, all existing studies, reports and other reasonably available data pertinent to the services to be provided by the Consultant.

10.2.3 Arrange for access to and make all reasonable provisions for the Consultant to enter upon City's public property as required for the Consultant to perform services.

10.2.4 In the event that Consultant believes that City is not reasonably complying with the requirements of Sections 10.2.1, 10.2.2 and 10.2.3 above, Consultant shall immediately provide written notice within three (3) days of such non-compliance to the City, absent which Consultant shall be deemed to have waived such non-compliance by City.

10.3 CONSULTANT'S RESPONSIBILITIES

10.3.1 The Consultant shall comply with all laws, ordinances and governmental rules, regulations, and orders now or at any time during the term of this Agreement which as a matter of law are applicable to or which affect the procedures of the Consultant.

10.3.2 The obligation of the Consultant to comply with governmental requirements is provided for the purpose of assuring proper safeguards for the protection of persons and property.

10.3.3 The Consultant shall exercise the same degree of care, skill and diligence in the performance of the services as is ordinarily provided by a professional surveyor under similar circumstances. If at any time during the term of this Agreement, or the construction of the specific project for which the Consultant has provided surveying services under a prior Agreement, it is determined that the Consultant's documents are incorrect, defective or fail to conform to the scope of services, due to Consultant's negligent acts or failure to act, errors or omissions, upon written notification from the City, the Consultant shall immediately proceed to correct the work, re-perform services which fail to satisfy the foregoing standard of care as determined by the City, and Consultant shall pay all costs and expenses associated with correcting said incorrect or defective work, including any additional testing, inspections, and construction. The City's rights and remedies under this section are in addition to, and are cumulative of, any and all other rights and remedies provided by this Agreement by law, equity or otherwise.

10.3.4 The Consultant's obligations under Section 10.3.3 shall survive termination, cancellation, or expiration of this Agreement.

10.3.5 Any and all drawings, plans, specifications, or other construction or contract documents prepared by the Consultant shall be accurate, coordinated and adequate for construction and shall be in conformity and comply with all applicable law, codes, and regulations. Products, equipment, and material specified for use shall be readily available unless written authorization to the contrary is given by the City.

10.3.6 Consultant and the Services must comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations including, without limitation, American with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and any related federal, state, or local laws, rules, and regulations.

10.4 POLICY OF NON-DISCRIMINATION

10.4.1 The Consultant shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work and shall not discriminate on the grounds of race, color, national origin, sex, gender identity, sexual orientation, age, disability/handicap, religion, family or income status.

10.5 CODE OF ETHICS

10.5.1 The Consultant and its employees shall be bound by the provisions of the City Code of Ethics provided in Sections 10-16 through 10-32 of the Code of the City of Sunrise, Florida, as may be amended from time to time, which standards shall by this reference be made a part of this Agreement as though set forth in full. The Consultant agrees to incorporate the provisions of this Section 10.5.1 into any subcontract.

10.6 OWNERSHIP OF DOCUMENTS/DELIVERABLES

10.6.1 All subcontracts for the preparation of reports, studies, plans, drawings, specifications, or other data entered into by the Consultant for a project shall provide that all such documents and rights obtained by virtue of such subcontracts shall become the property of the City.

10.6.2 All finished or unfinished documents, including, but not limited to, detailed reports, studies, calculations, plans, drawings, surveys, maps, models, photographs, specifications, and all other data pertaining to or prepared for the City or furnished by the Consultant pursuant to this Agreement shall be and shall remain at all times, throughout the Project and thereafter, the property of the City, whether the project for which they are made is completed or not, and shall be delivered by the Consultant to City within ten (10) calendar days after receipt of written notice requesting delivery of said documents. The Consultant shall have the right to keep one record set of the documents upon completion of the work; however, in no event shall the Consultant use, or permit to be used, any of the documents without the City's prior written authorization. Any reuse of such documents by the City without the written verification or adaptation by the Consultant for the specific purpose intended will be at the City's sole risk.

10.6.3 At the conclusion of its work and before final payment, or from time to time as may be required by the City, the Consultant shall release and deliver to the City any and all such originals; provided, however, that the Consultant may, with the City's approval, reproduce such originals for the purpose of the Consultant's record file of the work. The Consultant shall not sell, copy, or reuse any drawings in total or in part for any other project, except with the prior written permission of the City.

10.6.4 All final plans and documents prepared by the Consultant shall bear the endorsement and seal of a person duly registered as a surveyor, as appropriate, in the State of Florida.

10.7 RECORDS/AUDITS

10.7.1 Consultant shall maintain and shall require its subconsultants to maintain complete and correct records, books, documents, papers and accounts pertaining to work performed in connection with this Agreement including without limitation, reasonable substantiation of all expenses incurred based on actual costs and of all property acquired or disposed of

hereunder. Such records, books, documents, papers and accounts shall be available at all reasonable times for examination and audit by the City or any authorized City representative with reasonable notice and shall be kept for a period of three (3) years after the completion of each project to be performed pursuant to this Agreement. Incomplete or incorrect entries in such records, books, documents, papers or accounts will be grounds for disallowance by or reimbursement to the City of any fees or expenses based upon such entries. The Consultant shall remit promptly to the City the amount of any adjustment resulting from audit.

10.7.2 Refusal of the Consultant to comply with the provisions in this Section shall be grounds for immediate termination for cause by the City of this Agreement.

10.8 NO CONTINGENT FEE

10.8.1 The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. In the event the Consultant violates this provision, the City shall have the right to terminate this Agreement without liability, and at its sole discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

10.9 INDEPENDENT CONTRACTOR

10.9.1 The Consultant is an independent contractor under this Agreement. Personal services provided by the Consultant shall be by employees or subcontractors of the Consultant who shall be subject to supervision by the Consultant, and who shall not be deemed officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to Services rendered under this Agreement shall be those of the Consultant and not City.

10.10 INDEMNIFICATION/HOLD HARMLESS

10.10.1 To the fullest extent permitted by law, the Consultant agrees to indemnify and hold harmless the City, its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Consultant or other persons employed or utilized by the Consultant in performance of this Agreement. This indemnification shall survive the term of this Agreement.

10.10.2 PURSUANT TO FLORIDA STATUTES §558.0035, A DESIGN PROFESSIONAL EMPLOYED BY CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR DAMAGES RESULTING FROM NEGLIGENCE OCCURRING WITIN THE SCOPE AND OF PROFESSIONAL SERVICES

UNDER THIS AGREEMENT.

10.11 INSURANCE REQUIREMENTS

- 10.11.1 Consultant agrees to maintain, on a primary non-contributory basis and at its sole expense, at all times during the life of this Agreement, the following insurance coverages, limits, including endorsements described herein. The requirements contained herein, as well as City’s review or acceptance of insurance maintained by Consultant is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Consultant under this Agreement. Any coverage maintained by the City shall apply excess of, or contingent upon the absence of, other insurance required or maintained by Consultant.
- 10.11.2 Commercial General Liability: Consultant agrees to maintain Commercial General Liability at a limit of liability not less than **\$1,000,000** each occurrence, **\$2,000,000** annual aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Separation of Insureds
- 10.11.3 Business Automobile Liability: **Consultant agrees to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000 Each Occurrence. Coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event Consultant does not own automobiles, Consultant agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.**
- 10.11.4 Worker’s Compensation Insurance & Employers Liability: Consultant agrees to maintain Worker’s Compensation Insurance & Employers Liability in accordance with Florida Statute, Chapter 440.
- 10.11.5 Professional Liability: Consultant agrees to maintain Professional (Errors & Omissions) Liability at a limit of liability not less than **\$2,000,000** per claim, **\$2,000,000** annual aggregate, or a **\$2,000,000** combined single limit. When a self-insured retention (SIR) or deductible exceeds **\$25,000**, the City reserves the right, but not the obligation, to review and request a copy of the Consultant’s most recent annual report or audited financial statement. For policies written on a “Claims-Made” basis, Consultant agrees to maintain a retroactive date prior to or equal to the effective date of this Agreement. In the event the policy is cancelled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this Agreement, Consultant agrees to purchase a SERP with a minimum reporting period not less than **two (2)** years. The requirement to purchase a SERP shall not relieve Consultant of the obligation to provide replacement coverage.
- 10.11.6 Additional Insured: The Consultant agrees to endorse the City as an Additional Insured on the Commercial General Liability with the following, or similar endorsement providing equal or broader Additional Insured coverage, the CG 20 26 07 04 or CG 20 26 04 13 Additional Insured – Designated Person or Organization endorsements; or the CG 20 10 07 04 or CG 20 10 04 13 Additional Insured – Owners, Lessees, or Contractors endorsements in combination with the additional endorsement CG 20 37 07 04 or CG

20 04 13 Additional Insured – Owners, Lessees, or Contractors – Completed Operations shall be required to provide back coverage for the Consultant’s “your work” as defined in the policy and liability arising out of the products-completed operations hazard. The Additional Insured shall read “City of Sunrise.”

10.11.7 Waiver of Subrogation: Consultant agrees to provide a Waiver of Subrogation for each required policy herein. When required by the insurer, or should a policy condition not permit Consultant to enter into a pre-loss agreement to waive subrogation without an endorsement, then Consultant agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Consultant enter into such an agreement on a pre-loss basis.

10.11.8 Certificate(s) of Insurance: Consultant agrees to provide City a Certificate of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect, and Certificates of Insurance shall provide a minimum thirty (30) day endeavor to notify City of a non-renewal or cancellation notice, when available by Consultant’s insurer. If the Consultant receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, Consultant agrees to notify the City by fax and email as set forth in this Section within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance.

The certificate holder’s address shall read:

City of Sunrise
 Attn: Risk Manager
 City of Sunrise
 10770 W. Oakland Park Boulevard, 4th Floor
 Sunrise, FL 33351
 Fax: (954) 572-2278
 Email: riskmanagement@sunrisefl.gov

10.11.9 Right to Revise or Reject: City reserves the right, but not the obligation, to revise any insurance requirement, not limited to limits, coverages and endorsements, or to reject any insurance policies that fail to meet the criteria stated herein. Additionally, City reserves the right, but not the obligation, to review and reject any insurer providing coverage due of its poor financial condition or failure to operating legally.

10.12 REPRESENTATIVE OF CITY AND CONSULTANT

10.12.1 City Representative. It is recognized that questions in the day-to-day conduct of this Agreement will arise. The City designates the City’s Capital Projects Director, unless designated otherwise by the City Manager, as the person to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

10.12.2 Consultant Representative. Consultant appoints Priscilla Morales, as the Consultant’s Representative to whom all communications pertaining to the day-to-day action of this Agreement shall be addressed.

10.13 ALL PRIOR AGREEMENTS SUPERSEDED

10.14.1 This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements whether oral or written.

10.14 SUBCONSULTANTS

10.14.1 The Consultant has presented the firms shown on EXHIBIT "4" – Subconsultant list attached hereto and made a part hereof, to the City to act as ongoing subconsultants during the term of this Agreement, and the City hereby approves Consultant’s use of said firms. In the event the Consultant requires the services of any other subconsultant or subcontractor not identified on EXHIBIT “4” – Subconsultant list in connection with services covered by this Agreement, the Consultant must secure the prior written approval of the City Commission.

10.14.2 Any subcontract with a subcontractor or subconsultant shall afford to the Consultant rights against the subcontractor or subconsultant which correspond to those rights afforded to the City against the Consultant herein, including but not limited to those rights of termination as set forth herein.

10.14.3 **No reimbursement shall be made to the Consultant for any subconsultants that have not been previously approved in writing by the City for use by the Consultant.**

10.15 NOTICES

Whenever either party desires to, or is required to give notice to the other, it must be given by written notice, sent by certified United States mail with return receipt requested or other commercial overnight delivery services, or hand delivery addressed to the party for whom it is intended, at the place last specified, and the place for giving notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving of notice, to wit:

FOR CITY:

Director of Utilities
City of Sunrise
777 Sawgrass Corporate Parkway
Sunrise, Florida 33325
(954) 888-6055

WITH A COPY TO:

City Attorney
City of Sunrise
City Attorney’s Office
10770 W. Oakland Park Boulevard

Sunrise, Florida 33351
(954)746-3300
Procurement Manager

City of Sunrise
Purchasing Office
10770 W. Oakland Park Boulevard

Sunrise, Florida 33351
(954)572-2274

FOR CONSULTANT:

Priscilla Morales, P.E., Project Manager
Craig A. Smith & Associates, LLC
21045 Commercial Trail
Boca Raton, FL 33481
(954) 314-4445

10.16 TRUTH-IN NEGOTIATION CERTIFICATE

10.16.1 Signature of this Agreement by Consultant shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other costs used to determine the compensation provided for in this Agreement are accurate, complete, and current as of the date of the Agreement and no higher than those charged to the Consultant’s most favored customer for the same or substantially similar services. The said rates and costs shall be adjusted to exclude any significant sums should the City determine that the rates and costs were increased due to inaccurate, incomplete, or noncurrent wage rates or due to inaccurate presentation of fees paid to outside contractors. The City shall exercise its rights under this clause within three (3) years following final payment.

10.17 GOVERNING LAW/JURISDICTION/VENUE

10.17.1 This Agreement shall be governed by the laws of the State of Florida. Except as set forth in Sections 5.2, 10.9.1, and 10.26.1, should the parties be involved in legal action arising under, or connected to, this Agreement, each party will be responsible for their own attorneys’ fees and costs. The venue for any litigation between the parties will be Broward County, Florida. Both parties hereby agree to waive a jury trial in any action between them, and will proceed to a trial by judge if necessary.

10.18 HEADINGS

10.18.1 Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

10.19 EXHIBITS

10.19.1 Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The Exhibits if not physically attached, should be treated as part of this Agreement, and are incorporated by reference.

10.20 COUNTERPARTS

10.20.1 This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.

10.21 WORDS AND PHRASES

10.21.1 Consultant shall not commence work until: 1) all insurance to be furnished hereunder has been approved by the City; and 2) Consultant has received a City Purchase Order and written Notice to Proceed or Notice of Commencement from the duly authorized representative of the City for provision of services under this Agreement. The City shall not be responsible to pay for or reimburse the Consultant for any work that does not comply with this Section.

10.22 NOTICE OF COMMENCEMENT/NOTICE TO PROCEED

10.22.1 Consultant shall not commence work until: 1) all Yes to be furnished hereunder has been approved by the City; and 2) Consultant has received a City Purchase Order and written Notice to Proceed or Notice of Commencement from the duly authorized representative of the City for provision of services under this Agreement. The City shall not be responsible to pay for or reimburse the Consultant for any work that does not comply with this Section.

10.23 TIME IS OF THE ESSENCE

10.23.1 All limitations of time set forth in this Agreement are of the essence.

10.24 CLAIMS BY CONSULTANT

10.24.1 All claims by the Consultant, all questions concerning interpretation or clarification of this Agreement or the acceptable fulfillment of this Agreement on the part of the Consultant, and all questions as to compensation and to extension of time shall be submitted in writing to the City’s representative. The Consultant shall be solely responsible for requesting instructions or interpretations and shall be solely liable for any costs and expenses arising from its failure to do so. All determinations, instructions, and clarifications of the City shall be final unless the Consultant files a written protest with the City Manager within fourteen (14) calendar days after the City’s representative notifies the Consultant of any such determination, instruction, or clarification, which written protest shall state clearly and in detail the basis of the protest. The City Manager’s decision shall be final.

10.24.2 The City Manager will issue a decision upon such protest. At all times during the protest period, the Consultant shall proceed with the work in accordance with determinations, instructions, and clarifications of the City’s representative. The Consultant’s failure to protest the City’s representative’s determinations, instructions, clarifications, or the City Manager’s decision within fourteen (14) calendar days after receipt thereof shall constitute a waiver by the Consultant of all its rights to further protest, judicial or otherwise.

10.24.3 It is specifically agreed that any and all claims by a party against another party arising out of this Agreement or the performance of the work thereunder or relating thereto, or otherwise (including but not limited to claims for extra work) except as specifically set forth in Subsections 10.24.1 and 10.24.2 above, shall be waived unless presented in writing to the other party within the time limit specified in this Agreement but in no event in excess of thirty (30) calendar days after occurrence of the event or circumstances giving rise to such claim.

10.24.4 The Consultant shall also submit such information, costs and data in such detail and specificity as may be reasonably required by the City to justify and substantiate such claims. The Consultant shall certify that all such information, costs and data are accurate,

complete, and true, to the best of its knowledge. It is agreed that under no circumstances shall the Consultant be compensated or reimbursed for expenses incurred in claim preparation, presentation, or prosecution unless directed in writing by the City.

10.25 CONSULTANT'S STANDARD OF CARE

10.25.1 Consultant represents that Consultant's services shall be performed with that degree of skill and judgment which is normally exercised by recognized professional surveying firms performing services of a similar nature, and that the services shall be performed and shall conform to generally accepted surveying firms' standards and practices. Consultant will re-perform any services not meeting this standard without additional compensation and shall pay all costs and expenses associated with correcting said services or work including any additional testing, inspections, corrections, or construction.

10.26 PATENT INDEMNITY

10.26.1 Subject to the limitations set forth in this Agreement, the Consultant shall indemnify, save harmless and defend the City and the City Commissioners, City officers, and City agents and employees (collectively "City Indemnified Party") from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorneys' fees incident to any infringement of any patent or patents related in any manner to the subject matter of the Agreement documents prepared by the Consultant; provided, however, that any City Indemnified Party may, at its option, be represented in any such suits, actions or legal proceedings by attorneys selected by City Indemnified Party at Consultant's expense. In case the Construction Documents or any part thereof is held in such suit to constitute infringement of any patent or patents and its use enjoined, the Consultant shall, at its own expense, subject to the limitation of the Consultant liability prescribed in this Agreement, either procure for the City the right to continue using said Construction Documents or replace same with non-infringing Construction Documents.

10.27 FORCE MAJEURE

10.27.1 Neither party shall be considered in default in the performance of its obligations hereunder to the extent that the performance of any such obligation is delayed, hindered or prevented by any cause which is beyond the reasonable control of the party affected thereby (hereinafter called "Force Majeure"). Force Majeure includes but is not limited to any of the following if reasonably beyond the control of the party claiming Force Majeure: war (declared or undeclared), fire, riot, storm, hurricane, floods, earth quake, tornado, act of terrorism or sabotage or any law, proclamation order, regulation, or ordinance of any government agency or any court, or any other cause similar to those enumerated above, which is not reasonably within the control of the party claiming Force Majeure.

10.27.2 The party affected by any Force Majeure shall give prompt written notice to the other party advising of the nature and extent of any Force Majeure and advising of the effects of the Force Majeure upon the completion and cost of the work hereunder. The parties shall consult promptly with each other concerning the Force Majeure and shall endeavor to agree upon mutually acceptable corrective action. In the event of a Force Majeure which prohibits performance by the Consultant for more than sixty (60) days, either party may terminate this Agreement for convenience and shall have no further obligation hereunder.

10.28 SUSPENSION

10.28.1 The City may, at its sole option, decide to suspend at any time the performance of all or any portion of work to be performed under this Agreement. The Consultant will be notified of such decision by the City in writing. The order shall be specifically identified as a stop work order under this Section. Upon receipt of the order, the Consultant shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of suspension.

10.28.2 Upon receipt of any such notice, the Consultant shall, unless the notice requires otherwise, do the following:

- A. Immediately discontinue work on the date and to the extent specified in the notice;
- B. Place no further orders, contracts or subcontracts for material, services, or facilities with respect to suspended work other than to the extent required in the notice;
- C. Promptly make every reasonable effort to obtain suspension upon terms satisfactory to the City, of all orders, subcontracts, and rental agreements to the extent they relate to performance of work suspended; and
- D. Continue to protect and maintain the services including those portions on which services have been suspended.

10.28.3 As full compensation for such suspension, the Consultant shall be reimbursed for the following costs, reasonably incurred, without duplication of any item, to the extent that such costs directly result from such suspension of work:

- A. An equitable amount to reimburse the Consultant for the cost of maintaining and protecting that portion of the services which have been suspended; and
- B. If, as a result of any such suspension of services, the cost to the Consultant of subsequently performing services is increased or decreased, an equitable adjustment will be made in the cost of performing the remaining portion of services.

10.29 RECORD DRAWINGS AND SPECIFICATIONS

10.29.1 During construction, the Consultant shall maintain for the City a record of deviations on the basis of information compiled and furnished, in part, by others, from the work as shown in the drawings and specifications and as actually installed. Before final payment by the City, the Consultant shall revise any drawings and specifications affected by such deviation so that all such documents shall show the work actually installed. A digital drawing or approved equal of the final certified record drawings shall be submitted to the City.

10.29.2 A review of the markup record drawings at the construction site will be conducted at the progress meeting.

10.30 ORDER OF PRECEDENCE

10.30.1 In the event of an inconsistency between provisions of this Agreement, the inconsistency shall be resolved in the following order:

- A. Project Agreement

- B. RFQ
- C. Response to RFQ

10.31 SUCCESSORS AND ASSIGNS

10.31.1 The City and Consultant bind themselves, their successors, assigns, and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements, and obligations contained in this Agreement. The Consultant shall not assign this Agreement without prior written consent of the City.

10.32 CONSULTANT'S PERSONNEL

10.32.1 The presence or duties of the Consultant's personnel at a work site, whether as onsite representatives or otherwise, do not make the Consultant or the Consultant's personnel in any way responsible for those duties that belong to the City and/or the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the construction Contract Documents and any health and safety precautions required by such construction work. The Consultant and the Consultant's personnel shall report to the City any health or safety deficiencies of the construction contractor(s) or other entity or any other person at the construction site that Consultant's personnel actually observe.

10.33 SEVERABILITY

10.33.1 If any provision of this Agreement or the application thereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

10.34 ENTIRETY OF AGREEMENT

10.34.1 The City and the Consultant agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto with the same formality as this Agreement.

10.35 THIRD PARTY BENEFICIARIES

10.35.1 It is expressly understood and agreed that the enforcement of these terms and conditions shall be reserved to City and Consultant and that there are no third party beneficiaries under this Agreement.

10.36 PUBLIC RECORDS

10.36.1 The Consultant shall comply with all applicable requirements contained in the Florida Public Records Law (Chapter 119, Florida Statutes), including but not limited to any applicable

provisions in Section 119.0701, Florida Statutes. To the extent that the Consultant and this Agreement are subject to the requirements in Section 119.0701, Florida Statutes, the Consultant shall:

- A. Keep and maintain public records required by the City to perform the services provided hereunder.
- B. Upon request from the City’s custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Consultant does not transfer the records to the City.
- D. Upon completion of this Agreement, transfer, at no cost, to the City all public records in the possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of this Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of this Agreement, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City’s custodian of public records, in a format that is compatible with the information technology systems of the City.

10.36.2 If the Consultant fails to comply with the requirements in this Section 40, the City may enforce these provisions in accordance with the terms of this Agreement. If the Consultant fails to provide the public records to the City within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONSULTANT SHOULD CONTACT THE CITY’S CUSTODIAN OF PUBLIC RECORDS: THE CITY CLERK, FELICIA M. BRAVO, BY TELEPHONE (954/746-3333), E-MAIL (CITYCLERK@SUNRISEFL.GOV), OR MAIL (CITY OF SUNRISE, OFFICE OF THE CITY CLERK, 10770 WEST OAKLAND PARK BOULEVARD, SUNRISE, FLORIDA 33351).

10.37 DISCRMINATORY VENDOR LIST

10.37.1 Pursuant to Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a consultant, contractor, supplier, subcontractor,

or under a contract with any public entity; and may not transact business with any public entity. By execution of this Agreement, Consultant certifies that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes.

10.38 PUBLIC ENTITY CRIMES

10.38.1 Pursuant to Section 287.133, Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a consultant, contractor, supplier, subcontractor, or under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. By execution of this Agreement, Consultant certifies that it has not been placed on the convicted vendor list as provided in Section 287.133, Florida Statutes.

10.39 SCRUTINIZED COMPANY

10.39.1 Pursuant to Section 287.135, Florida Statutes, Consultant certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes and that it is not engaged in a boycott of Israel.

10.39.2 Pursuant to Section 287.135, Florida Statutes, in the event the Agreement is for one million dollars or more, Consultant certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes; and Contractor further certifies that it is not engaged in business operations in Cuba or Syria.

10.39.3 Pursuant to Section 287.135, Florida Statutes, City may, at the option of the City Commission, terminate this Contract if Consultant is found to have submitted a false certification as provided under subsection 287.135(5), Florida Statutes; has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel; has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or has been engaged in business operations in Cuba or Syria.

10.40 E-VERIFY – EMPLOYMENT ELIGIBILITY

10.40.1 Consultant warrants and represents that it complies with Section 448.095, Florida Statutes, as may be amended. Consultant (1) has registered with and uses the E-Verify System (E-Verify.gov), to electronically verify the work authorization status of all newly hired employees; and (2) has verified that all of the Consultant’s subcontractors performing the duties and obligations of this Agreement are registered with and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

10.40.2 Consultant shall obtain from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in Section 448.095(1)(k), Florida Statutes, as may be amended.

Consultant shall maintain a copy of any such affidavit from a subcontractor for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this Agreement which requires a longer retention period.

10.40.3 City shall terminate this Contract if it has a good faith belief that Consultant has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If City has a good faith belief that Consultant’s subcontractor has knowingly violated Section 448.09(1), Florida Statutes, as may be amended, City shall notify Consultant to terminate its contract with the subcontractor and Consultant shall immediately terminate its contract with the subcontractor.

10.40.4 If City terminates this Agreement pursuant to the subsection 10.40.3 above, Consultant shall be barred from being awarded a future contract by City for a period of one (1) year from the date on which this Agreement was terminated. In the event of such Agreement termination, Consultant shall also be liable for any additional costs incurred by City as a result of the termination.

10.41 FOREIGN GIFTS AND CONTRACTS

Pursuant to Fla. Stat. §286.101(3), where the amount of the grant or contract is 100,000.00 or more, Consultant shall disclose any current or prior interest of, any contract with, or any grant or gift received from a country of foreign concern with a value of \$50,000 or more that was received or in force during the previous five (5) years. Definitions, disclosure requirements and exceptions are found in Fla. Stat. §268.101. Consultant represents and warrants it has complied with Fla. Stat. §286.101, it has properly disclosed such interests, contracts, grants or gifts to City before execution of this Agreement, and it will remain in compliance with Fla. Stat. §286.101 for the duration of this Agreement.

10.42 CLEAN AIR ACT

10.42.1 The Consultant 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.

10.42.2 The Consultant agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the City, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

10.42.3 The Consultant agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance. 10.43 FEDERAL WATER POLLUTION CONTROL ACT

10.42.4 The Consultant 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.

10.42.5 The Consultant agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the City of Sunrise Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

10.42.6 The Consultant agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

10.43 SUSPENSION AND DEBARMENT

10.43.1 This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Consultant is required to verify that none of the Consultants, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

10.43.2 The Consultant must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

10.43.3 This certification is a material representation of fact relied upon by City. If it is later determined that the Consultant did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

10.43.4 Consultant agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of this Agreement. Consultant further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

10.44 BYRD ANTI-LOBBYING AMENDMENT

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended) Consultants who apply or bid for an award of \$100,000 or more shall file the required certification. 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 any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.”

10.45 GRANT REQUIREMENTS

10.45.1 The project is partially funded with Funding from the U.S. Department of Transportation Federal Transit Administration (FTA). Consultants and its subconsultants are required to comply with applicable terms and conditions of the Grant Agreement and the FTA Master Grant Agreement, attached hereto as Attachment 1 – Grant Agreement and FTA Master Grant Agreement (Grant); 2 CFR 200 required contract terms, attached hereto as Attachment 2 – 2 CFR 200 Contract Provisions for Non-Federal Entity Contracts Under Federal Award; applicable terms of the Subrecipient Agreement between Broward Metropolitan Planning Organization and City of Sunrise for Joshlee Boulevard Improvements,

attached hereto as Attachment 3; and Federal Requirements and Provisions for this professional engineering services RFQ is attached hereto as Attachment 4 – Federal Requirements and Provisions for Professional Engineering Services.

10.45.2 Consultants and its subconsultants are required to comply with applicable Grant requirements applicable to the Project, including, but not limited to compliance with requirements relating to the source of the local share, accounting, records retention, audit provisions, Disadvantaged Business Enterprise (DBE) requirements, competitive procurement, Florida’s Prompt Payment Act, Davis Bacon Act requirements and Buy America requirements.

10.45.3 In addition to the obligations of the Grant, the consultant and its subconsultants are required to comply with any and all laws, statutes, rules, regulations, circulars, directives, and requirements of the federal and state government that relate to or in any manner the performance of public transit services and/or the Project grant funds under the Subrecipient Agreement between Broward Metropolitan Planning Organization and City of Sunrise for Joshlee Boulevard Improvements. These regulations, circulars, and directives include, without limitation, the following:

FTA Circular No. 4220.1G, “Third Party Contracting Guidelines”; 49 CFR Part 19, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments”; Office of Management and Budget (OMB) 2 CFR Chapter 1, Chapter II, Part 200, et al. Uniform Administrative Requirements, Cost Principles, and Audit Requirement for Federal Award: PART 2- UNIFORM ADMINISTRATIVE REQUIREMENTS COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARD, FTA Circular for Award Management Requirements, and any amendments or revisions to the foregoing.

10.45.4 Consultant agrees to comply and assures that each of its subconsultants will comply with 49 U.S.C. § 5325(b).

10.45.5 Consultant agrees to require, and assures that each of its subconsultants will require, its third-party contractors at each tier to provide;

- 1) The U.S. Secretary of Transportation and the Comptroller General of the United States, the state, or their duly authorized representatives, access to all third party contract records (at any tier) as required under 49 U.S.C. § 5325(g); and
- (2) Sufficient access to all third-party contract records (at any tier) as needed for compliance with applicable federal laws, regulations, and requirements or to assure proper management of agreement as determined by FTA.

10.45.6 As provided in 49 U.S.C. § 5325(k), to the extent practicable, the Consultant agrees and assures that each of its subconsultants:

- (1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53; and

City’s Initials _____

Consultant’s Initials _____

(2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

10.45.6 The Consultant agrees, and assures that each subconsultant, if any, will agree to comply with 49 U.S.C. § 5325(g), and federal access to records requirements as set forth in the applicable U.S. DOT Common Rules.

10.45.7 The Consultant agrees to permit, and to require its subconsultants to permit, FTA to have access to the sites of performance of its Award, the accompanying agreement, and any amendments thereto, and to make site visits as needed in compliance with the U.S. DOT Common Rules.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: the City, signing by and through its Mayor, attested to by its City Clerk, duly authorized to execute same and by **Stephen C. Smith**, signing by and through its President, duly authorized to execute same.

CITY

CITY OF SUNRISE, FLORIDA

By: _____
Mayor Michael J. Ryan

_____ day of _____, 2026.

AUTHENTICATION:

City Clerk

(SEAL)

Approved as to form for the City:

By: _____
Tom P. Moss
City Attorney

CONSULTANT

NAME OF FIRM

BY: _____
Stephen C. Smith, P.E.

TITLE: President

____ day of _____, 2026.

AUTHENTICATE:

Title

Please type name

(CORPORATE SEAL)

WITNESSES:

EXHIBIT “1” - SCOPE OF SERVICES

PROJECT UNDERSTANDING

The project includes professional surveying, geotechnical investigations, conceptual design, preparation of construction documents, and construction phase engineering services to support the conversion of an existing four-lane divided roadway into a reconfigured multimodal corridor.

The City’s planned improvements along Joshlee Boulevard (NW 33rd Street), from W. Oakland Park Boulevard to N. Nob Hill Road, are intended to enhance connectivity, safety, and multimodal accessibility throughout the corridor. The overarching objective is to transition the current vehicle centered cross-section into a context-sensitive facility that equitably serves pedestrians, cyclists, transit users, and vehicular traffic. The conceptual design emphasizes a meandering multi-use path and a cohesive park-like aesthetic within the right-of-way to create a more comfortable, inviting, and community-oriented public realm.

Key elements of the City’s intended improvements include:

- Removal of the two westbound travel lanes on the north side of the roadway
- Modification of the two eastbound lanes on the south side to accommodate two-way traffic
- Conversion of the existing median into on-street parking
- Installation of a multi-use path on the north side of the corridor
- Replacement of substandard sidewalks on the south side
- ADA upgrades throughout the corridor
- Roadway resurfacing and restriping, including overbuild to re-establish roadway crown
- Pedestrian and street lighting improvements
- Bus stop relocations and installation of enhanced transit shelters
- Safety improvements at cluster mailbox locations
- Driveway modifications where required
- Landscaping enhancements and installation of pedestrian amenities such as benches and trash receptacles

To ensure technical feasibility, constructability, and long-term corridor performance, CAS will utilize a three-phase implementation strategy.

IMPLEMENTATION APPROACH

Phase 1 – Conceptual Design and Feasibility Analysis

Phase 1 includes development of the conceptual design, supported by typical sections and concept plans, to facilitate City review, coordination with jurisdictional agencies, and confirmation of technical feasibility and constructability.

CAS's multidisciplinary team includes Andres Montero, Landscape Architect, who will assist in developing coordinated streetscape, landscape, and pedestrian amenity enhancements.

The concept will be developed to support structured workshopping with City staff and presentation to the City Commission, enabling the concept to advance into design development.

Phase 2 – Final Design and Construction Documents

Upon selection of a preferred concept, CAS will advance the design through preparation of complete construction documents, including 30%, 60%, and 90% design submittals.

Design services will include:

- Roadway geometry refinement
- Drainage and stormwater system design
- Signing and pavement marking plans
- Lighting coordination and design documentation
- ADA compliance evaluation and improvements
- Landscape and streetscape design
- Utility coordination
- Permitting coordination with applicable regulatory agencies
- Bidding Support Services

The objective of this phase is to deliver bid-ready construction documents.

Phase 3 – Construction Phase Services

CAS will provide professional engineering services during construction to support successful project implementation.

Services will include:

- Construction observation
- Review of shop drawings and contractor submittals
- Responses to Requests for Information (RFIs)
- Participation in progress meetings as required
- Review of Allowance Authorizations and Change Orders
- Coordination with City staff and the contractor
- Review of record drawings (as-builts)
- Preparation of final engineer certifications upon project completion

Throughout all phases, CAS will prioritize continuous public engagement and coordination with City staff to ensure the project reflects community needs, meets regulatory requirements, and achieves the City's multimodal transportation goals.

SCOPE OF SERVICES:

Craig A. Smith & Associates, LLC (CAS) will provide professional surveying, engineering design, permitting, and construction phase services necessary to support design and implementation of the proposed corridor improvements.

ASSUMPTIONS

- CAS will coordinate with Florida Power & Light (FPL) for conversion and enhancement of roadway lighting to provide improved pedestrian-scale illumination. Photometric analyses will be prepared for existing and proposed lighting conditions using the FPL LED catalog. Engineering for the lighting system will be provided by FPL. Proposed lighting includes double black Holophane Granville 58W, 4000K luminaires mounted on 14'-6" black Washington concrete poles.
- Bus shelter design will follow the City standard Landscape Forms Pangard II shelter in Titanium finish. The structural foundation will consist of a 12-inch reinforced concrete slab on grade with thickened edge, and shelter lighting will be solar powered.
- Cultural resource surveys, historic resource evaluations, tree surveys, or archaeological investigations are not assumed to be required.
- The City will provide available existing utility and infrastructure information within or near the project corridor.
- The City will be responsible for public meeting notifications, distribution of meeting materials, and reserving meeting venues.
- The project corridor is assumed to be free of environmental contamination.
- Construction phase services included in this proposal may be performed under this contract or under a future task order at the City's discretion.
- No modifications to existing traffic signals are assumed to be required. Any traffic signal changes identified by the City or required by regulatory agencies would constitute additional services.

TASK 1: ROUTE SURVEY

Survey will physically locate all above ground, visible improvements within Joshlee Boulevard commencing at West Oakland Park Boulevard and ending at Nob Hill Road. Survey baseline will be established at 100-foot intervals and cross sections taken to ten (10) feet beyond each right of way at fifty-foot intervals. Plan view elevations will be shown as relative to North American Vertical Datum of 1988 at each section and at pertinent points for facilitation of Engineering Design. All visible, above ground improvements and utilities will be located and shown together with utilities as marked on the surface by the Craig A. Smith & Associates Locating Department. Inverts and pipe materials/ sizes for existing Drainage and Sanitary Sewer structures will be measured and shown as available. Trees 3" or greater will be shown with diameter at breast height (DBH) and common name if known by the Surveyor's agent. A base map will be created in current software parameters and provided to the Engineering Department as well as a Certified Map of Specific Purpose Survey adhering to the Standards of

Practice for Surveying, (Chapter 5J – 17) of the Florida Administrative Code, for submittal to entities of interest.

TASK 2: PROVIDE LOCATES – GPR/EM SERVICES

Provide utility location and verification services within the topographic survey area discussed in Task S86 above, using APWA standards for marking. A subsurface ground penetrating radar (GPR) unit shall be used in addition to electromagnetic induction (EM) to perform/verify horizontal locations of existing utility lines. Utility lines will be painted on the surface or marked with pin flags.

TASK 3: UTILITY TEST HOLES (SOFT DIGS)

Utility test holes (soft digs) will be performed, and reports provided for each. The locations of utility test holes will be shown on the survey produced under Task 1 above with utility depth, elevation, size, material and type. The test holes will be performed based on the direction of the project engineer. (Estimated 10 test holes, additional holes required will be performed at the below unit price.)
Unit Price = \$600 per hole

TASK 4: DESIGN DEVELOPMENT PHASE MEETINGS

Design Development consists of preparation of the conceptual design, supported by associated typical sections and concept plans superimposed on current aerial imagery, to facilitate City input, and confirmation of technical feasibility and constructability

Design Development will include:

- One (1) conceptual plan prepared and superimposed on aerial imagery
- Two (2) representative typical sections (parking section/non-parking section)
- Preliminary assessment of utility conflicts, drainage considerations, traffic operations, and constructability constraints

Andres Montero, Landscape Architect and member of CAS’s multidisciplinary team, will provide conceptual landscape architecture

services including median treatments, streetscape enhancements, and pedestrian amenity integration to ensure a cohesive corridor vision.

CAS will develop the concept for structured workshopping with City staff and presentation to the City Commission to the concept for advancement into design development. On-street parking will be coordinated with the city as per the original grant application. Emphasis with the concept is on complete streets and public transportation.

TASK 5: COMPLETE STREETS AND STORMWATER IMPROVEMENTS – DESIGN DEVELOPMENT

Upon approval of a typical section by the City, CAS will prepare 30%, 60% and 90% construction drawings for the proposed improvements. It is anticipated that 60% of plans and reports will be submitted to agencies having jurisdiction for review, these include Broward County’s Traffic and Highway Engineering Divisions and Broward County Resilient Environment Department for Environmental Resource Permit and Surface Water Management Licensing and the City of Sunrise. Upon receiving comments, CAS will review comments with the City and submit responses to permitting agencies.

Roadway plans will consist of the following sheets, Key Sheet, General Notes, Typical Sections, Roadway Plans in Plan and Profile (8 sheets), Pavement Marking and Striping Plans, Phasing/Maintenance of Traffic sequencing and Standard Details consistent with City and State standards. Plans will be prepared in the most recently obtained version by CAS of Autodesk Civil3D CADD software. CAS will coordinate with local utilities as reasonably necessary in order to resolve known utility conflicts during the design.

Existing drainage infrastructure within the project corridor is assumed to largely remain in place, subject to verification of structural integrity and hydraulic adequacy. The City will provide available CCTV inspection video and related documentation to support assessment of existing pipe condition, joint integrity, sediment accumulation, and potential structural deficiencies.

Based on preliminary assumptions, the existing positive drainage system is anticipated to be retained and selectively improved as necessary. Improvements may include localized structure rehabilitation or replacement, minor system reconfiguration to accommodate proposed roadway modifications, and enhancements to address documented or observed areas of roadway ponding.

Water quality enhancements are anticipated to be incorporated into the design, potentially including the use of exfiltration trenches for stormwater treatment and attenuation where feasible within the available right-of-way. These improvements will be evaluated for compatibility with existing utilities, groundwater conditions, and maintenance considerations.

All proposed drainage and stormwater improvements are assumed to occur within existing public rights-of-way. No private property acquisition or off-site drainage improvements are assumed as part of this phase unless otherwise directed by the City.

Deliverables for this task consist of 30%, 60% and 90% plans and an Engineer's Opinion of Probable Cost at each deliverable.

TASK 6: PERMITTING SERVICES

It is the intent to obtain owner-required permits for the entire project to keep the project shovel ready. Specifically, CAS will prepare and apply to the City of Sunrise, Broward County Resilient Environment Department (RED) for an Environmental Resource Permit and surface water management license, and Broward County's Traffic and Highway Construction Engineering Divisions. For each application submittal, up to 4 responses for request for additional information are included under this task. Permit fees are not included in this scope. Wetland resources permitting is not included in this proposal. An existing surface water management license was not found for Joshlee Boulevard for the existing stormwater system. As such, application will need to be made to permit the existing conditions and modify the drainage accordingly.

When permits are issued for this project, the conditions and expiration dates are the sole responsibility of the City. CAS is not responsible for extending time limit entitlements or permits and the City shall pay all permit fees.

Note: Construction dewatering (if proposed) or FDEP Notice of Intent - NPDES permitting are considered by CAS contractor-type permits and are made part of the construction contract as the responsibility of the contractor.

TASK 7: CONTRACT DOCUMENTS & SPECIFICATIONS AND BIDDING SUPPORT SERVICES

CAS will provide a quantity take-off for the purposes of completing an Engineer's Opinion of Probable Cost Estimate with each deliverable at conceptual, 30%, 60%, and 90% as well as bid schedule, final design

drawings, and technical specifications applicable for the proposed work to be incorporated into the City's front-end contract documents which are intended to be utilized in the bidding purposes. CAS will prepare responses from potential bidders requesting clarifications regarding the bid documents provided by CAS. The City will be responsible for issuing addenda to bidders of record. CAS will attend a pre-bid conference and assist the City with answering questions during the conference. CAS will compile a bid tabulation and provide an award recommendation to the City.

Deliverables for this task consist of signed and sealed plans and specifications, bid form, and Opinions of Probable Construction Cost.

TASK 8: CONSTRUCTION OBSERVATION SERVICES

CAS will function as the Owner's representative, monitoring construction on a daily basis as required, to ensure the project is being constructed substantially in accordance with the plans.

As the Owner's representative, CAS will oversee required testing, review test results (i.e., densities, proctors, and LBR test), provide weekly construction reports, and coordinate between engineers and contractors to resolve construction issues.

Minimum observations shall include:

- Periodic stormwater pollution prevention practices.
- Periodic subgrade, limerock, asphalt installation.
- Periodic Grading inspections and
- Final inspection.

This fee is based on a 9-month construction period. (Budget 20 hrs./wk.). Construction observation services required beyond this period will be addressed in a supplemental agreement.

TASK 9: SHOP DRAWING REVIEWS

CAS will review civil engineering related shop drawings, samples, other data and reports which the selected contractor is required to submit to the City for review, but only for the conformance with design concept of the project and compliance with the information given on the design drawings. Such review shall not extend to means, methods, techniques, sequence or procedures of construction or to safety precautions and programs incident thereto.

TASK 10 ENGINEERING SERVICES DURING CONSTRUCTION

CAS’s Engineer of Record will act as the CLIENT’s Engineer and visit the site at intervals appropriate to the stages of construction to provide construction observation as necessary for certifications to the appropriate agencies. CAS will coordinate with City inspectors, CAS inspectors and Contractor as necessary to monitor construction progress and help resolve any construction issues that may arise. CAS will attend preconstruction meeting and construction progress meetings (not to exceed 18 progress meetings). CAS will conduct a final inspection with the appropriate agencies and Contractor to determine if the work is acceptable and assist the Owner with project close-out procedures.

The fee is based on a 9-month construction period.

TASK 11: FINAL CERTIFICATIONS

CAS will prepare the final certification documents for submittal to the appropriate permitting agencies and review and process record drawings (as-builts) in accordance with the City of Sunrise As-Built Drawing Requirements – Paving and Drainage.

CAS’s certifications will ensure that CAS’s construction observations and review of the record drawings are in general conformance with the permitted Civil engineering plans prepared by CAS.

NOTE: Anticipated final certifications will be to Broward County and City of Sunrise.

TASK 12: ELECTRICAL ENGINEERING SERVICES PROPOSAL

A subconsultant to Craig A. Smith, LLC will provide the following services:

1. Site visit to verify existing conditions
2. Kickoff meeting with City staff to establish lighting requirements
3. Coordination with Florida Power & Light (FPL) regarding lighting fixtures and poles
4. Preparation of photometric lighting calculations
5. Development of conduit and pull box installation plans
6. Preparation of 60%, 90%, and 100% lighting plans
7. Attendance at up to two virtual design review meetings

TASK 13: GEOTECHNICAL INVESTIGATIONS

A subconsultant to Craig A. Smith, LLC will provide the following services:

1. One boring shall be performed per 1,000 feet of continuous exfiltration trench, with a minimum depth of 20 feet.
2. A minimum of one open hole percolation test per 1,000 feet of continuous exfiltration trench shall be performed.
3. Based on the corridor length of just under 3,500 LF, a total of four (4) borings and four (4) percolation tests will be required.
4. One asphalt core will be performed in each outside lane at approximately 500-foot intervals, for a total of fourteen (14) pavement cores.

TASK 14: LANDSCAPE ARCHITECTURE

A landscape architecture subconsultant will provide streetscape and landscape design services to include:

Schematic Design:

- Development of a schematic landscape and streetscape plan
- Hardscape and landscape organization
- Pedestrian and vehicular circulation
- Streetscape character and plant massing
- Preliminary plant palette
- Conceptual site furnishings

Up to three meetings with the City are included.

Construction Documents:

Following approval of schematic design, the consultant will prepare:

- Tree disposition plan
- Planting plans
- Irrigation plans
- Landscape details
- Landscape specifications

Up to eight City review meetings or submittals are included.

Construction Observation:

- Shop drawing review
- RFIs and design clarifications
- Periodic site visits

Includes up to 20 half-day site visits.

TASK 15: TRAFFIC ENGINEERING

A traffic engineering subconsultant will provide roadway, signing and pavement marking plans to include:

Public Involvement Support:

- Preparation of roadway roll plots
- Presentation graphics for public meetings
- Technical support during public involvement meetings
- Meeting summaries and comment responses

Maintenance of Traffic (MOT)

- MOT concept development
- Temporary Traffic Control Plan (TTCP) analysis
- Lane closure analysis
- Pedestrian and bicycle accommodation analysis
- Preparation of MOT Master Design Files

Signing and Pavement Marking Design

- Signing and marking analysis in accordance with FDOT Design Manual, Standard Plans, and MUTCD
- Preparation of Signing and Marking Master Design Files
- Quantity tabulations
- Signing and marking plan sheets

Plans will be submitted at 60%, 90%, and Final stages.

EXHIBIT “2” - PROJECT SCHEDULE

<u>Task No. 1</u>	<u>Task Name</u>	<u>Task Duration (Days)</u>	<u>Cumulative Duration (Days*)</u>
Task 1	Route Survey	45	45
Tasks 2-3	Utility Locating (GPR / EM Services), Utility Test Holes	15	60
Task 4	Conceptual Design Development	60	120
	City Review and Comment	30	150
Task 5	Complete Streets and Stormwater Design (30% Plans)	60	210
	City Review and Comment	30	240
	Complete Streets and Stormwater Design (60% Plans)	90	330
	City Review and Comment	30	360
	Complete Streets and Stormwater Design (90% Plans)	30	390
	City Review and Comment	30	420
Task 6	Permitting Services	120	540
Task 7	Contract Documents, Specifications & Bidding Support	90	630
Tasks 8-11	Construction Management Services	270	900
Total Project Duration			900

* Calendar days from Notice to Proceed

City's Initials _____

Consultant's Initials _____

EXHIBIT “3” – HOURLY RATES

Increase In Hourly Rates – Hourly rates may be adjusted upon the initial contract term expiration of this Agreement, if authorized by the City. Adjustments may be requested based on substantiated documentation. The adjusted rates shall not be used to adjust previously authorized Project Agreements. Such adjustment shall be authorized through a written amendment to this Agreement.

<u>Classification</u>	<u>Hourly Rate</u>
Principals.....	\$250.00
Court Testimony.....	\$250.00
Vice President.....	\$225.00
Senior Supervising Engineer.....	\$195.00
Supervising Engineer.....	\$170.00
Project Manager.....	\$145.00
Project Engineer.....	\$125.00
Senior CADD Technician.....	\$125.00
CADD Technician.....	\$90.00
Senior Field Representative.....	\$125.00
Field Representative.....	\$95.00
Professional Surveyor and Mapper.....	\$150.00
Survey Coordination Manager.....	\$120.00
Survey Technician.....	\$90.00
Clerical.....	\$65.00
Survey Crew (2-man).....	\$160.00
Survey Crew (3-man).....	\$195.00
Survey Crew, Lidar.....	\$375.00
Survey Crew - pile staking.....	\$225.00
Utility Locate Crew.....	\$150.00
Soft Dig Crew (per hole).....	\$600.00
3D Radar Crew.....	\$450.00
3D Radar Processor.....	\$175.00

City’s Initials _____

Consultant’s Initials _____

EXHIBIT “4” – SUBCONSULTANT LIST

Name of any firms listed in the RFQ that will be providing subconsulting services:

Electrical Engineering: Smith Engineering Consultants, Inc.

Geotechnical Services: RADISE International

Landscape Architecture: Andres Montero Landscape Architecture

Traffic Engineering: VN Engineers, Inc.

EXHIBIT "5" – COMPENSATION AND METHOD OF PAYMENT

City agrees to pay the Consultant, as compensation for the consulting services provided for in this Agreement, an amount to be negotiated by the City and the Consultant, in accordance with the provisions of this Agreement and the City Ordinances and/or policy.

SECTION 1 METHOD OF BILLING AND PAYMENT

1.1 The Consultant shall submit invoices no more frequently than once per month to the City's Representative for services performed to date under this Agreement. Said invoice shall include at minimum the items identified in Section 2 below.

1.2 The City agrees that it will make its best efforts to pay the Consultant within twenty (20) calendar days of receipt of the Consultant's correct statement as provided herein.

1.3 Payment will be made to the Consultant at the following address:

4152 W. Blue Heron Blvd, Suite 116
Riviera Beach, FL 33404
(954) 782-8222

SECTION 2 INVOICES

Consultant invoices must consist of the following:

2.1 **FOR PROJECT SUM WORK/SERVICES**

- A. Project Number and Project Name assigned by City
- B. Date
- C. Billing Period
- D. Invoice Number
- E. Purchase Order Number
- F. Phase of work as set forth in the work authorization and the estimated percentage of work completed. Billings for each phase shall not exceed the amount allocated to said phase. Invoice shall include a summary of fees with accrual of the total and credits for portions paid previously.
- G. Amount billed to date on previous invoices
- H. Amount paid to date on previous invoices
- I. If multiple City accounts are used, allocation of work to each account
- J. Beginning and ending balance amount
- K. When requested by City, Consultant shall provide backup for past and current invoices that record hours, hourly rate costs and expenses so that total hours and costs by tasks may be determined.

2.2 Invoices shall be accompanied by such supporting documentation as the City may from time to time reasonably request. Supporting documentation for Reimbursable Costs shall include, but not be limited to the following:

- A. Labor costs shall be supported by a description of the work performed during the invoiced period, if requested, as agreed to by the City, and by person.

- B. Billings by the Consultant for the City-approved services, expenses, and other costs for outside commitments, of vendors, suppliers and subconsultants shall be supported by copy of such third parties' original invoice and related supporting documentation.
- C. Where authorized, billings for travel and per diem expenses excluding meals, shall be supported by travel expense reports. Travel expenses shall not exceed the amounts authorized by Section 2-2 of the Code of Ordinances of the City of Sunrise, Florida.
- D. The Consultant will prepare and the Consultant's Project Manager will sign each invoice submitted.

2.3 Consultant Pay Requests: The Consultant's payment requests for services shall, where applicable, reflect the allocations as provided in this Agreement and shall state the percentage of completion as to each such allocation. The invoice shall bear the signature of the Consultant, which signature shall constitute the Consultant's representation to the City that the services indicated in the invoice have progressed to the level indicated, have been properly and timely performed as required herein, that the rates billed are correct and in accordance with the rates in EXHIBIT "3" – Hourly Rates, that the Reimbursable Expenses included in the invoice have been reasonably incurred, that all obligations of the Consultant covered by prior invoices have been paid in full, and that, to the best of the Consultant's knowledge, information and informed belief, the amount requested is currently due and owing, there being no reason known to the Consultant that payment of any portion thereof should be withheld. Submission of the Consultant's invoice for final payment and reimbursement shall further constitute the Consultant's representation to the City that, upon receipt from the City of the amount invoiced, all obligations of the Consultant to, others, including its subconsultants, incurred in connection with the Project, will be paid in full.

2.4 The City may withhold payment on items lacking proper support until such support is received and accepted by the City. Disputed items will be deducted from invoices by the City and referred to the Consultant for clarification to avoid delay in payment of undisputed items. Payment by the City of the Consultant's invoices shall be without prejudice to the City's right to audit the Consultant's invoices and to challenge the correctness of the invoice at any time thereafter.

2.5 As soon as practical after submission to the City of **1)** the Consultant's final statement supported by an invoice, and **2)** a certificate signed by the City's Representative that the work under this Agreement has been satisfactorily completed, the City shall make final payment in an amount which will make the aggregate of all progress payments and the final payment equal to the full amount due under this Agreement. Submission of the Consultant's invoice for final payment and reimbursement shall constitute the Consultant's representation to the City that, upon receipt from the City of the amount invoiced, all obligations of the Consultant to others, including its subconsultants, incurred in connection with the Project, shall be paid in full. The Consultant shall deliver to the City all documents requested by the City evidencing payment to any and all subconsultants, and all final specifications, plans or other documents as dictated in the Agreement. Acceptance of final payment shall constitute a waiver of all claims against the City by the Consultant.

2.6 Payments otherwise due the Consultant may be withheld in an amount sufficient to satisfy any claim which the City may have against the Consultant.

2.7 The Consultant shall promptly repay to the City, within thirty (30) days after receipt of the City's request, any overpayment by the City

ATTACHMENT 1

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION**

MASTER AGREEMENT

**For Federal Transit Administration Agreements authorized by
49 U.S.C. chapter 53 and Title 23, United States Code (Highways), as amended by
the Infrastructure Investment and Jobs Act of 2021 (IIJA), the Fixing America's Surface
Transportation (FAST) Act, the Moving Ahead for Progress in the 21st Century Act
(MAP-21), the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy
for Users (SAFETEA-LU), the SAFETEA-LU Technical Corrections Act of 2008, or other
federal laws that FTA administers.**

**FTA MA(31)
May 2, 2024**

<http://www.transit.dot.gov>

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**UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION**

MASTER AGREEMENT

PREFACE

Statutory Authorities

This is the official Federal Transit Administration (FTA) Master Agreement that applies to each Underlying Agreement (Grant Agreement, Cooperative Agreement, Loan Agreement, Loan Guarantee Agreement, or Line of Credit Agreement) for a specific Award authorized by:

- (a) Federal transit laws, 49 U.S.C. chapter 53, as amended, including the following:
 - (1) The Infrastructure Investment and Jobs Act of 2021 (IIJA), Public Law No. 117-58, November 15, 2021, and other authorizing legislation that may be enacted;
 - (2) The Fixing America’s Surface Transportation (FAST) Act, Public Law No. 114-94, December 4, 2015;
 - (3) The Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law No. 112- 141, July 6, 2012, as amended by the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, Public Law No. 114-41, July 31, 2015; and
 - (4) The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Public Law No. 109-59, August 10, 2005, as amended by the SAFETEA-LU Technical Corrections Act of 2008, Public Law No 110-244, June 6, 2008.
- (b) Continuing Resolutions or Other Appropriations Resolutions or Acts funding the Department of Transportation during Fiscal Year 2021.
- (c) Title 23, United States Code (Highways).
- (d) Other federal legislation that FTA administers, as FTA so determines.

Purpose of this Master Agreement

This FTA Master Agreement contains the standard terms and conditions that apply to the Underlying Agreement with the Recipient, which Underlying Agreement may take the form of an:

- (a) FTA Grant Agreement, including an FTA Grant Agreement for an award of federal assistance under the Tribal Transit Program;
- (b) FTA Cooperative Agreement; or
- (c) Transportation Infrastructure Finance Innovation Act (TIFIA) or Railroad Rehabilitation and Improvement Financing (RRIF) Loan, Loan Guarantee, Line of Credit, Master Credit Agreement for a Project overseen by FTA, or State Infrastructure Bank (SIB) Cooperative Agreement.

THEREFORE, in consideration of the mutual covenants, promises, and representations herein, FTA and the Recipient agree as follows:

GENERALLY APPLICABLE PROVISIONS

Section 1. Terms of this Master Agreement and Compliance.

- (a) The Recipient must comply with all applicable federal laws, regulations, and requirements, and should follow applicable federal guidance, except as FTA determines otherwise in writing.
- (b) To assure compliance with federal laws, regulations, and requirements, the Recipient must take measures to assure that other participants in its Underlying Agreements (e.g., Third Party Participants) comply with applicable federal laws, regulations, and requirements, and follow applicable federal guidance, except as FTA determines otherwise in writing.
- (c) FTA may take enforcement action if the Recipient or a Third Party Participant violates an applicable federal law, regulation, or requirement, or does not follow applicable federal guidance.
- (d) FTA and the Recipient agree that not every provision of this Master Agreement will apply to every Recipient or Underlying Agreement.
 - (1) FTA has divided this Master Agreement into the “Preface,” “Generally Applicable Provisions,” and “Special Provisions for Specific Programs.”
 - (2) This Master Agreement has an Appendix A illustrating the specific provisions of this Master Agreement that apply to the Tribal Transit Programs.
 - (3) Criteria determining which federal laws, regulations, requirements, and guidance apply include the type of Award, the federal law authorizing federal assistance for the Award, the federal law, regulations, or requirements governing how the Award must be implemented, the federal guidance pertaining to the Award, and the Recipient’s legal status as a “state,” “state instrumentality,” a “local government,” a federally recognized Indian Tribe (Indian Tribe), a “private nonprofit entity,” a “private for-profit entity,” or an individual.
- (e) As provided in federal laws, regulations, requirements, and guidance, FTA will enforce only those federal laws, regulations, requirements, and guidance that apply to the specific FTA Recipient, its Third Party Participants, or to any Project and related activities encompassed in the Award, the accompanying Underlying Agreement, and any Amendments thereto.

- (f) Each provision of this Master Agreement must be interpreted in context with all other provisions of this Master Agreement and the Underlying Agreement. If a single provision is read apart from the rest of this Master Agreement or the Underlying Agreement, that provision might not convey the extent of the Recipient's responsibility to comply with the requirements of this Master Agreement and the Underlying Agreement.
- (g) This Master Agreement does not have an Expiration Date. This Master Agreement continues to apply to the Recipient and its Underlying Agreement, until modified or superseded by a more recently enacted or issued applicable federal law, regulation, requirement, or guidance, or Amendment to this Master Agreement or the Underlying Agreement.

Section 2. Definitions.

- (a) *List of Definitions.* In addition to the definitions provided in 49 U.S.C. § 5302, as amended, or in previous legislation if circumstances may require, the Recipient agrees that the following definitions apply:
 - (1) *Application* means the request for federal assistance submitted that is signed and dated by the Applicant or an official authorized to act on the behalf of the Applicant, and includes all explanatory, supporting, and supplementary documents filed with FTA by or on behalf of the Applicant, and has been reviewed by FTA staff and addresses FTA's comments and concerns. An application for federal assistance in the form of a Grant or Cooperative Agreement must be submitted in FTA's Transit Award Management System (TrAMS).
 - (2) *Approval*, unless FTA determines otherwise in writing, means a written statement of an authorized federal official transmitted electronically or in typewritten hard copy expressly permitting the Recipient to take or omit an action in connection with its Underlying Agreement, and signed by a federal official authorized to permit the Recipient to take or omit an action that may not be taken or omitted without the Federal Government's permission. Approval does not mean permission to take or omit a similar action other than the specific action for which approval was given and does not include an oral permission or interpretation, which has no legal force, authority, or effect. For purposes of this Master Agreement, the definition of "approval" also applies to "concurrence" and "waiver."
 - (3) *Associated Transit Improvement* means, with respect to a Project or an area to be served by a Project, an activity that is designed to enhance transit service or use and that is physically or functionally related to transit facilities.

- (4) *Award* means the Scope of Work that FTA has approved when FTA agreed to provide federal assistance. The Award also includes the requirements of all documents, terms, and conditions incorporated by reference and made part of the Underlying Agreement, which may be a Grant or Cooperative Agreement.
- (5) *Award Budget* [formerly, *Approved Project Budget*] means the budget for all the Projects encompassed by the FTA Award. In contrast, *Project Budget* means the budget allocated for a single Project contained within an Award that FTA or a pass-through entity approves during the federal award process or in subsequent amendments to the FTA Award. It may include the federal and non-federal share or only the federal share, as determined by FTA or the pass-through entity. For legal and other purposes, FTA reserves the right to consider information other than that displayed electronically or on paper in the “Award Budget” to determine the scope of the Award, eligible Project activities, and other terms used in connection with the Award.
- (6) *Common Rules* means any one or more of the following:
- (i) U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 1201, which incorporates by reference U.S. Office of Management and Budget (OMB) regulatory guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 200;
 - (ii) U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” former 49 CFR Part 18; and
 - (iii) U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations,” former 49 CFR Part 19.
- (7) *Concurrence* has the same meaning as the definition of Approval in this section of this Master Agreement.
- (8) *Cooperative Agreement* means an instrument that the Federal Government uses to award federal assistance to the Recipient to support each specific Project and related activities described in the Underlying Agreement in which, consistent with 31 U.S.C. § 6305, the Federal Government takes an active role and retains substantial control. An FTA Cooperative Agreement consists of three parts:

- (i) The FTA Award, consisting of the amount of federal assistance FTA is providing to support each specific Project and related activities, and a description of each Project as set forth in the Application submitted to FTA in TrAMS or on paper if permitted;
 - (ii) The Terms and Conditions incorporated by reference and made part of the Cooperative Agreement consisting of the following documents, irrespective of whether electronic or in typewritten hard copy, including:
 - (A) The most recent Federal Transit Administration Master Agreement, which applies to this Cooperative Agreement;
 - (B) The current Certifications and Assurances applicable to the FTA Award that the Recipient has selected and provided to FTA; and
 - (C) Any Award notification containing special conditions or requirements if issued; and
 - (iii) The Execution of the Cooperative Agreement by the Recipient.
- (9) *Designated Recipient* means an entity designated, in accordance with the planning process under 49 U.S.C. §§ 5303 and 5304, by the governor of a state, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under 49 U.S.C. § 5336 to urbanized areas of 200,000 or more in population; or a state or regional authority, if the authority is responsible under the laws of a state for a Capital Project and for financing and directly providing public transportation.
- (10) *Disability* has the same meaning as in section 3(1) of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12102.
- (11) *Federal Assistance* means a type of federal funding that the Recipient receives through the Underlying Agreement.
- (12) *Federal Award Identification Number* has the same meaning as “Project No.” in previous Grant Agreements and Cooperative Agreements with FTA.
- (13) *Federal Government* means the United States of America and any of its executive departments or agencies.
- (14) *Federal Guidance* includes any federal document or publication signed by an authorized federal official providing official instructions or advice about a federal program that is not defined as a “federal requirement” and applies to

entities other than the Federal Government. Federal Guidance also may apply to the Federal Government, and may take the form of a:

- (i) Federal directive;
- (ii) Federal circular;
- (iii) Federal order;
- (iv) Federal published policy;
- (v) Federal administrative practice;
- (vi) Federal guideline;
- (vii) Federal guidance document;
- (viii) Letter signed by an authorized federal official; or
- (ix) Similar document.

(15) *Federal Requirement* means:

- (i) An applicable federal law, regulation, or executive order;
- (ii) An applicable provision of the Underlying Agreement, including any Special Condition, Requirement, Provision, or Condition of Award;
- (iii) This Master Agreement;
- (iv) A later Master Agreement after FTA and the Recipient have entered into the Underlying Agreement; or
- (v) Another applicable federal mandate.

(16) *Federal Transit Administration (FTA)* is an operating administration of the Department of Transportation (U.S. DOT). Any reference to the “Urban Mass Transportation Administration” (also referred to as “UMTA”) refers to the “Federal Transit Administration” or “FTA” when appearing in any records of the United States.

(17) *Federal Transit Administrator* is the head of the Federal Transit Administration.

(18) *Federally Recognized Indian Tribe* means an Indian tribe that is federally recognized by the Bureau of Indian Affairs of the U.S. Department of the

Interior in accordance with the provisions of the Federally Recognized Indian Tribe List Act of 1994, as amended, 25 U.S.C. § 5130.

- (19) *Fiscal Year*, as used in this Master Agreement, means “federal fiscal year,” which begins on October 1 of each calendar year and ends on September 30 of the next calendar year.
- (20) *Governor* means the governor of a state, the mayor of the District of Columbia, or the chief executive officer of a territory of the United States and includes the designee thereof.
- (21) *Grant Agreement* means a legal instrument that the Federal Government uses to award federal assistance to the Recipient to support each specific Project and related activities described in the Underlying Agreement in which, consistent with 31 U.S.C. § 6304, the Federal Government does not take an active role and does not retain substantial control. An FTA Grant Agreement consists of three parts:
 - (i) The FTA Award, consisting of the amount of federal assistance FTA is providing to support each specific Project and related activities, and a description of each Project as set forth in the Application submitted to FTA in TrAMS or on paper if permitted;
 - (ii) The Terms and Conditions incorporated by reference and made part of the Grant Agreement consisting of the following documents, irrespective of whether electronic or in typewritten hard copy, including:
 - (A) The most recent “Federal Transit Administration Master Agreement, which applies to this Grant Agreement;
 - (B) The current Certifications and Assurances applicable to the FTA Award that the Recipient has selected and provided to FTA; and
 - (C) Any Award notification containing special conditions or requirements if issued; and
 - (iii) The Execution of the Grant Agreement by the Recipient.
- (22) *Indian Tribe* means the Recipient or Subrecipient that receives “Tribal Transit Program” assistance authorized by 49 U.S.C. § 5311(c)(1) to support its Underlying Agreement.

- (23) *Internal Controls* means a process, implemented by a Recipient or Subrecipient, designed to provide reasonable assurance regarding the achievement of objectives in the following categories: (a) effectiveness and efficiency of operations, (b) reliability of reporting for internal and external use, and (c) compliance with applicable laws, regulations, and requirements.
- (24) *Local Government Authority* includes (a) a political subdivision of a state; (b) an authority of at least one state or political subdivision of a state; (c) an Indian tribe; and (d) a public corporation, board, or commission established under the laws of a state.
- (25) *Low-Income Individual*, for purposes of 49 U.S.C. § 5311(j)(1)(A)(iii), means an individual whose family income is at or below 100 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act, 42 U.S.C. § 9902(2), including any revision required under that section, for a family of the size involved.
- (26) *Master Credit Agreement* means a conditional agreement to extend one or more loans to a Recipient under the Transportation Infrastructure Finance and Innovation Act (TIFIA) of 1998, as amended, 23 U.S.C. §§ 601 – 609, or the Railroad Rehabilitation and Improvement Financing (RRIF) program, 45 U.S.C. §§ 821 – 823, and also means the type of Underlying Agreement used for the TIFIA or RRIF loans.
- (27) *Non-Federal Funds* or *Non-Federal Share* includes the following sources of funding or in-kind property or services used to match the federal assistance awarded for the Grant or Cooperative Agreement:
- (i) Local funds;
 - (ii) Local in-kind property or services;
 - (iii) State funds;
 - (iv) State in-kind property or services;
 - (v) Other federal funds for which the federal statute authorizing a program specifically provides that federal funds made available for that program can be applied to the cost sharing requirements of other federal programs.
- (28) *Non-Tribal Service Provider*, for purposes of 49 U.S.C. § 5311(j)(2), means a non-tribal provider of public transportation that connects residents of tribal

lands with surrounding communities, improves access to employment or healthcare, or otherwise addresses the mobility needs of tribal members.

- (29) *Project* means the public transportation improvement activities eligible for federal assistance in an application to FTA and/or in an FTA Award.
- (30) *Public Transportation*, has the same meaning as “transit” or “mass transportation,” and, consistent with the definition at 49 U.S.C. § 5302, means regular, continuing shared- ride surface transportation services that are open to the general public, or open to a segment of the general public defined by age, disability, or low income, but does not include:
 - (i) Intercity passenger rail transportation provided by Amtrak or a successor thereof as described in 49 U.S.C. chapter 243;
 - (ii) Intercity bus service;
 - (iii) Charter service;
 - (iv) School bus service;
 - (v) Sightseeing service;
 - (vi) Courtesy shuttle service for patrons of one or more specific establishments; or
 - (vii) Intra-terminal or intra-facility shuttle services.
- (31) *Recipient* or *Direct Recipient* means a non-federal entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program. The term “Recipient” does not include a Subrecipient.
- (32) *Scope of Work* means the purpose of the Grant Agreement or Cooperative Agreement and the activities and approaches required to carry out a Project. The scope of work consists of various components, including the Award Budget, beneficiaries, locations, and other aspects identified in the approved application. FTA reserves the right to consider other information in determining the scope of the Project or the “scope of work of a Grant Agreement or Cooperative Agreement” when “scope” is used for other purposes. See the latest edition of the FTA Master Agreement.
- (33) *Split Letter* (sometimes referred to as a suballocation letter or government subapportionment letter) means a letter in which a Designated Recipient of Urbanized Area Formula Grant Program funding authorized by 49 U.S.C.

§ 5307, a Designated Recipient of Formula Grants for Enhanced Mobility of Seniors and Individuals with Disabilities authorized by 49 U.S.C. § 5310, a Designated Recipient of the State of Good Repair Formula Grants, 49 U.S.C. § 5337, agrees to a reassignment or reallocation of that federal assistance to one or more direct Recipients.

- (34) *Subagreement* or *Subgrant* means an agreement through which the Recipient awards federal assistance to its Subrecipient(s) to support or stimulate any of the Recipient's or Subrecipient's Projects or related activities supported under the Award, the accompanying Underlying Agreement, or Amendments thereto, but does not include a third party contract, third party subcontract, or lease.
- (35) *Subrecipient* or *Subgrantee* means any entity or person that receives federal assistance provided by an FTA Recipient instead of FTA directly, but does not include a Third Party Contractor, Third Party Subcontractor, or Lessee.
- (36) *Third Party Agreement* includes agreements or arrangements supported in whole or in part with federal assistance awarded to a Recipient by FTA, including a subagreement with a subrecipient, a third party contract, a third party subcontract, a lease, or similar arrangement or agreement as FTA may recognize.
- (37) *Third Party Contract* means a legal instrument by which a Recipient or Subrecipient purchases property or services needed to carry out the Grant Agreement or Cooperative Agreement. This does not include an instrument describing a transaction that meets the definition of a federal Award, Grant, Cooperative Agreement, Subaward, or Subagreement.
- (38) *Third Party Participant* means each participant in the Recipient's Project, except for FTA and the Recipient, whose work under the Project is supported with FTA funding, eligible non-federal share dedicated to the Project, or is dedicated as an in-kind contribution eligible for non-federal share. A Third Party Participant may be a Subrecipient, Third Party Contractor, Third Party Subcontractor, Lessee, or Similar Participant in the Recipient's Project (for example, a partner in a joint development venture).
- (39) *Third Party Subcontract* means a subcontract entered into by the Third Party Contractor with a Third Party Subcontractor, or a Third Party Subcontractor with another Third Party Subcontractor at any tier, and is supported in whole or in part with the federal assistance originally derived from FTA, or non-federal share dedicated to the Recipient's Underlying Agreement.

- (40) *Underlying Agreement* means a specific Grant Agreement, Cooperative Agreement, or, with respect to TIFIA or RRIF assistance, a specific Loan Agreement, Line of Credit Agreement, or Loan Guarantee Agreement that incorporates the terms of this Master Agreement, in each case including any amendments thereto, supported with federal assistance appropriated or made available under the authorized program.
- (41) *Unique Entity Identifier* has two meanings:
- (i) A Recipient's or a Subrecipient's unique entity identifier for purposes of the "System of Award Management" (SAM), which currently is the DUNS Number; but
 - (ii) For FTA purposes, FTA assigns a separate Recipient/Vendor ID as a "unique entity identifier," which is a four-digit number and is displayed on the Grant Agreement and the Cooperative Agreement following the heading "Recipient ID."
- (42) *Waiver* has the same meaning as the definition of Approval in this section of this Master Agreement.
- (b) *Application of Definitions.* The Recipient also agrees that the definitions in section 2(a) above apply throughout this Master Agreement.

Section 3. Implementation.

- (a) *Effective Date.* The Effective Date of Recipient's Underlying Agreement is the date when the authorized FTA official signs the Underlying Agreement.
- (b) *Description of Each Project.* The "Description of Each Project" in the "Executive Summary" of the "FTA Award" section of the Recipient's Underlying Agreement often provides only a brief description of each Project and related activities to be undertaken by the Recipient; therefore, the Recipient agrees to perform the work described in the terms of its Underlying Agreement, including all the documents and information incorporated by reference and made part of that Underlying Agreement.
- (c) *Prompt Implementation.* After receiving notice that the FTA official signed the Underlying Agreement, the Recipient agrees to undertake promptly each Project and related activities described in the Underlying Agreement.
- (d) *Completion Dates.* The Recipient agrees to complete each Project within the time periods specified in the Underlying Agreement and all activities must be completed by the Award's end date, unless FTA agrees in writing to extend the end date. Unless FTA determines otherwise in writing, interim milestone dates and other completion

dates applicable to the Award are good faith estimates and are not intended to be firm contractual requirements. However, FTA and the Recipient agree that milestone dates and other completion dates for Full Funding Grant Agreements, Small Starts Grant Agreements or other specific agreements in which FTA expressly states that the milestone dates or other completion dates for the Underlying Agreement are firm dates that may be enforced.

- (e) *The Recipient's Capacity.* To carry out its Underlying Agreement, the Recipient agrees to maintain:
 - (1) Sufficient legal, financial, technical, and managerial capacity, and adequate functional capacity to:
 - (i) Plan, manage, and complete its responsibilities outlined in the Underlying Agreement;
 - (ii) Use the Project property;
 - (iii) Carry out the safety and security aspects of the Underlying Agreement;
 - (iv) Comply with the terms and conditions of the Underlying Agreement, the Recipient's annual Certifications and Assurances to FTA, and applicable federal laws, regulations, and requirements; and
 - (v) Follow applicable federal guidance, except as the Federal Government determines otherwise in writing.
 - (2) Strong internal controls to assure that it is managing its Award in compliance with federal laws, regulations, requirements, and the terms and conditions of the Underlying Agreement including, but not limited to:
 - (i) Amendments or revisions to its Award Budget;
 - (ii) Salaries and wages of the Recipient's and Subrecipient's personnel;
 - (iii) Protection of personally identifiable information and other sensitive information; and
 - (iv) Other matters that must be in compliance with federal laws, regulations, requirements, and the terms and conditions of the Underlying Agreement.
- (f) *U.S. DOT Administrative Requirements.* The Recipient agrees to comply with the following U.S. DOT regulations (Common Rules) to the extent applicable:

- (1) *Requirements Applicable On or After December 26, 2014.* The following requirements apply to the Award, the accompanying Underlying Agreement, and any Amendments thereto signed by an authorized FTA official on or after December 26, 2014 as follows:
- (i) U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 1201, which incorporates by reference U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 200, and which applies to an Award, the accompanying Underlying Agreement, and any Amendments to any Underlying Agreement with a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization; and
 - (ii) Except as FTA determines otherwise in writing, U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 1201, and subparts A through E of U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 200, apply to a private for-profit entity; notably, the Cost Principles of Part 31 of the Federal Acquisition Regulation, which permits the payment of profits or fees for work under procurement contracts, generally will not apply to private for-profit entities.
- (2) *Requirements Applicable Before December 26, 2014.* The following requirements apply to the Award, the accompanying Underlying Agreement, and any Amendments thereto signed by an authorized FTA official before December 26, 2014 as follows:
- (i) For a state, local government, or Indian tribal government, U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” former 49 CFR Part 18;
 - (ii) For an institution of higher education or a nonprofit organization, U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education; Hospitals, and Other Non-Profit Organizations,” former 49 CFR Part 19; or
 - (iii) For a private for-profit organization, U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Agreements with

Institutions of Higher Education, Hospitals, and Other Non-profit Organizations,” former 49 CFR Part 19.

- (g) *Application of Federal, State, and Local Laws, Regulations, Requirements, and Guidance.* The Recipient agrees to comply with all applicable federal requirements and follow applicable federal guidance. All standards or limits are minimum requirements when those standards or limits are included in the Recipient’s Underlying Agreement or this Master Agreement. At the time the FTA official awards federal assistance to the Recipient in support of the Underlying Agreement, the federal requirements and guidance that apply then may be modified from time to time, and will apply to the Recipient or the accompanying Underlying Agreement, except as FTA determines otherwise in writing.
- (h) *The Recipient’s Responsibility to Comply with Federal Requirements.* Irrespective of involvement by any other entity in the Underlying Agreement:
 - (1) *General.* The Recipient agrees to comply with all federal requirements that apply to itself and the Underlying Agreement.
 - (2) *Primary Responsibility for Compliance.*
 - (i) The Recipient, as the Direct Recipient of federal assistance, agrees that it is ultimately responsible for full compliance with federal requirements related to itself, its Award, the accompanying Underlying Agreement, and any Amendments thereto, even though:
 - (A) A Third Party Participant provides property or services to support a Project or related activities implementing the Award, the accompanying Underlying Agreement, any Amendments thereto; or
 - (B) Another entity or person is involved with the Award, the accompanying Underlying Agreement, or any Amendments thereto.
 - (ii) FTA and the Recipient agree that if FTA makes an Award to a Recipient other than the Designated Recipient as defined under 49 U.S.C. § 5302, the Designated Recipient is not a party to the Award or the Underlying Agreement and is not responsible for compliance with federal requirements related to the Underlying Agreement. However, if FTA makes an Award to a Designated Recipient, then that Designated Recipient is responsible for compliance with federal requirements related to its Underlying Agreement. FTA and the Recipient further agree to the terms of the

Designated Recipient's Split Letter, Suballocation Letter, or Government Subapportionment Letter attached in TrAMS, including the amounts allocated by the Designated Recipient to each Direct Recipient, and the commitment to comply with the associated transit improvement requirement as stated in that letter.

- (iii) Apart from other oversight and reviews FTA may conduct, the Recipient agrees that FTA is expressly authorized to conduct oversight of the Recipient's and its Subrecipients' compliance with federal requirements for safety and security, procurement (including Buy America requirements), management, and finance.
- (i) *The Recipient's Responsibility to Extend Federal Requirements to Third Party Participants.* In certain circumstances, the Recipient's compliance with specific federal requirements depends on compliance by its Third Party Participant(s) with those federal requirements, and therefore:
- (1) *General.* The Recipient agrees to ensure that its Third Party Participant(s) will comply with applicable federal requirements, and follow applicable federal guidance.
 - (2) *The Recipient as a "Pass-Through" Entity.* If the Recipient is providing a subaward to a Subrecipient to carry out all or part of its Award, the Recipient agrees to obtain the agreement of each Subrecipient to comply with U.S. DOT's administrative requirements, as set forth above.
 - (3) *Performance of the Recipient's Responsibilities.* If a Third Party Participant is expected to fulfill any responsibilities typically performed by the Recipient, the Recipient agrees to ensure that the Third Party Participant will carry out the Recipient's responsibilities in compliance with federal requirements, and provide enough information to each Third Party Participant so that it understands that it will be expected to follow federal guidance.
 - (4) *Risk.* As provided in 2 CFR Part 1201, which incorporates by reference 2 CFR Part 200, the Recipient agrees to evaluate the risk involved before awarding a subagreement to any entity.
 - (5) *Third Party Agreements.* To comply with federal requirements, the Recipient agrees to enter into a written Third Party Agreement with each Third Party Participant in its Underlying Agreement and must include all appropriate provisions stating the Third Party Participant's responsibilities to assure the Recipient's capability to comply with applicable federal requirements and

guidance and specifying the responsibilities that the Third Party Participant will fulfill on the Recipient's behalf.

- (6) *Notice to Third Party Participants.* The Recipient agrees to include notice in each Third Party Agreement that:
 - (i) 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
 - (ii) Applicable changes to those federal requirements will apply to each Third Party Agreement and parties thereto at any tier.

- (j) *Changed Circumstances.* The Recipient agrees that changed circumstances may occur that may impact the Recipient's ability to comply with the terms and conditions of the Underlying Agreement.

- (1) *Types of Changes.* Certain circumstances can cause significant changes in performance of a Project or related activities or adversely affect the Recipient's ability to carry out its Underlying Agreement, such as:
 - (i) A change in federal requirements or guidance;
 - (ii) A change in state, territorial, local, or tribal requirements;
 - (iii) A change in the Recipient's circumstances, including:
 - (A) Its legal, financial, technical, or managerial capacity;
 - (B) Its continuing control of Project property; or
 - (C) Another similar situation; and
 - (iv) Any current or prospective legal matter with potentially serious consequences, including a major dispute, default, breach, or litigation, or knowledge that the Recipient's principal, official, employee, agent, or a Third Party Participant, or other person has submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has committed a criminal or civil violation of law pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving federal assistance; suspension, debarment, or other similar administrative or enforcement action against the Recipient or any

Third Party Participant; or any matter or situation, including any other change or legal action that may adversely affect the Federal Government's interest in a Project or related activities.

- (2) *Notice.* In the circumstances described above, the Recipient agrees to provide immediate written notice to the:
 - (i) FTA Regional Counsel for the Region in which the Recipient operates public transportation or implements the Underlying Agreement;
 - (ii) FTA Headquarters Manager that administers the Underlying Agreement; or
 - (iii) FTA Chief Counsel.

- (k) *Conflict Between Federal Requirements and State, Territorial, Local, or Tribal Requirements.* FTA and the Recipient understand that a federal requirement may conflict with a state, territorial, local, or tribal requirement, and agree that the Recipient must comply with each applicable federal requirement that pre-empts the conflicting state, territorial, local, or tribal requirement.
 - (1) *Compliance with State, Territorial, Local or Tribal Requirements.* Unless otherwise pre-empted by a federal requirement, FTA and the Recipient agree that:
 - (i) FTA expects the Recipient to comply with applicable state, territorial, local, and tribal requirements; and
 - (ii) FTA does not require the Recipient to take any action involving the Underlying Agreement that would violate a state, territorial, local, or tribal requirement that conflicts with a federal requirement.

 - (2) *When a Conflict Arises.* When a federal requirement conflicts with a state, territorial, local, or tribal requirement:
 - (i) The Recipient must notify FTA immediately in writing if compliance with the federal requirement would violate a state, territorial, local, or tribal requirement, or require the Recipient to violate a state, territorial, local, or tribal requirement.

 - (ii) The Recipient must make appropriate arrangements with FTA to proceed with its responsibilities as set forth in the Underlying Agreement, or terminate the Underlying Agreement expeditiously, if necessary.

- (1) *No Federal Government Commitment or Liability to Third Parties.* Except as the Federal Government expressly consents in writing, the Recipient agrees that:
 - (1) The Federal Government does not and shall not have any commitment or liability related to the Underlying Agreement, to any Third Party Participant at any tier, or to any other person or entity that is not a party (FTA or the Recipient) to the Underlying Agreement; and
 - (2) Notwithstanding that the Federal Government may have concurred in or approved any Solicitation or Third Party Agreement at any tier that may affect the Underlying Agreement, the Federal Government does not and shall not have any commitment or liability to any Third Party Participant or other entity or person that is not a party (FTA or the Recipient) to the Underlying Agreement.

Section 4. Ethics, Political Activity, Disqualification, and Certain Criminal Activity.

- (a) *Standards of Conduct.* At a minimum, the Recipient agrees to, and assures that its Subrecipients will, establish and maintain written Standards of Conduct covering conflicts of interest that:
 - (1) Apply to the following individuals who have a present or potential financial interest, or other significant interest, such as a present or potential employment interest in the selection, award, or administration of a third party contract or subcontract:
 - (i) The Recipient or its Subrecipients' officers, employees, board members, or agents engaged in the selection, award, or administration of any third party agreement;
 - (ii) The immediate family members or partners of those listed above in section 4(a)(1)(i) of this Master Agreement; and
 - (iii) An entity or organization that employs or is about to employ any person that has a relationship with the Recipient or its Subrecipient listed above in sections 4(a)(1)(i) and (ii) of this Master Agreement;
 - (2) Prohibit those individuals listed above in section 4(a)(1) from:
 - (i) Engaging in any activities involving the Recipient's or any of its Subrecipients' present or potential Third Party Participants at any tier, including selection, award, or administration of a third party agreement in which the individual has a present or potential financial or other significant interest; and

- (ii) Accepting a gratuity, favor, or anything of monetary value from a present or potential Third Party Participant in the Recipient's Underlying Agreement, unless the gift is unsolicited and has an insubstantial financial or nominal intrinsic value; and
- (3) Establish penalties, sanctions, or other disciplinary actions for violations, as permitted by state or local law or regulations, that apply to those individuals listed above in section 4(a)(1) and the Recipient's or Subrecipient's Third Party Participants.
- (b) *Bonus or Commission.* The Recipient affirms that it has not paid, and agrees that it will not pay, any bonus or commission to obtain federal assistance for any Project or related activities supported under the Underlying Agreement.
- (c) *Lobbying Restrictions.* The Recipient agrees that neither it nor any Third Party Participant will use federal assistance to influence any officer or employee of a federal agency, member of Congress or an employee of a member of Congress, or officer or employee of Congress on matters that involve the Underlying Agreement, including any extension or modification, according to the following:
 - (1) *Laws, Regulations, Requirements, and Guidance.* This includes:
 - (i) The Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended;
 - (ii) U.S. DOT regulations, "New Restrictions on Lobbying," 49 CFR Part 20, to the extent consistent with 31 U.S.C. § 1352, as amended; and
 - (iii) Other applicable federal laws, regulations, requirements, and guidance prohibiting the use of federal assistance for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature; and
 - (2) *Exception.* If permitted by applicable federal law, regulations, requirements, or guidance, such lobbying activities described above may be undertaken through the Recipient's or Subrecipient's proper official channels.
- (d) *Political Activity.* The Recipient agrees to comply with:
 - (1) The Hatch Act, 5 U.S.C. chapter 15, which limits the political activities of state and local government agencies supported in whole or in part with federal assistance, including the political activities of state and local government officers and employees whose principal governmental

employment activities are supported in whole or in part with federal assistance;

- (2) U.S. Office of Personnel Management regulations, “Political Activity of State or Local Officers or Employees,” 5 CFR Part 151; and
- (3) 49 U.S.C. § 5323(l)(2) and 23 U.S.C. § 142(g), which limits the applicability of the Hatch Act, as follows:
 - (i) The Hatch Act does not apply to nonsupervisory employees of a public transportation system, or any other agency or entity performing related functions, based upon the Award of federal assistance under 49 U.S.C. chapter 53 or 23 U.S.C. § 142(a)(2); but
 - (ii) Notwithstanding the preceding section 4(e)(3)(ii) of this Master Agreement, the Hatch Act does apply to a nonsupervisory employee if imposed for a reason other than the Award of federal assistance to its employer under 49 U.S.C. chapter 53 or 23 U.S.C. § 142(a)(2).

(e) *False or Fraudulent Statements or Claims.*

- (1) *Civil Fraud.* The Recipient acknowledges and agrees that:
 - (i) Federal laws, regulations, and requirements apply to itself and its Underlying Agreement, including 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 CFR Part 31.
 - (ii) By executing the Underlying Agreement, the Recipient certifies and affirms to the Federal Government the truthfulness and accuracy of any claim, statement, submission, certification, assurance, affirmation, or representation that the Recipient provides to the Federal Government.
 - (iii) The Federal Government may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Recipient presents, submits, or makes available any false, fictitious, or fraudulent information.
- (2) *Criminal Fraud.* The Recipient acknowledges that 49 U.S.C. § 5323(l)(1) authorizes the Federal Government to impose the penalties under 18 U.S.C. § 1001 if the Recipient provides a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation in

connection with a federal public transportation program under 49 U.S.C. chapter 53 or any other applicable federal law.

(f) *Trafficking in Persons.*

- (1) *Legal Authorities.* The Recipient agrees to comply and assures the compliance of each Subrecipient, with federal requirements and guidance, including:
 - (i) Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended, 22 U.S.C. § 7104(g); and
 - (ii) The terms of this section 4(f), which have been derived from U.S. OMB regulatory guidance, “Award Term for Trafficking in Persons,” 2 CFR Part 175, per U.S. OMB’s direction.
- (2) *Definitions.* The Recipient agrees that for purposes of this section 4(f):
 - (i) *Employee* means either an individual who is employed by the Recipient or a Subrecipient, and is participating in a Project or related activities as set forth in the Underlying Agreement, or another person who is participating in a Project or related activities as set forth in the Underlying Agreement and is not compensated by the Recipient, including, but not limited to, a volunteer, or an individual whose services are contributed by the Recipient or Third Party Participant as an in-kind contribution toward the cost sharing requirements of the Recipient’s Underlying Agreement.
 - (ii) *Forced labor* means labor obtained by recruitment, harboring, transportation, provision, or other means of obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
 - (iii) *Private entity* means any entity other than a state, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR § 175.25, and includes a for-profit organization, or a nonprofit organization, including any nonprofit organization of higher education, hospital, or tribal organization other than one included in the definition of Indian Tribe at 2 CFR § 175.25(b).
 - (iv) *Severe forms of trafficking in persons* has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.

- (v) *Commercial sex act* has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.
 - (vi) *Coercion* has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.
- (3) *Provisions Applicable to All Recipients.* The Recipient agrees to, and assures that its Subrecipients will:
- (i) *Provide Information.* Inform FTA immediately of any information it receives from any source alleging a violation of the prohibitions listed in section 4(f)(4) of this Master Agreement; and
 - (ii) *Subagreement Provision.* Include the following provision in any subagreement it enters into with a private entity as defined above in section 4(f)(2)(iii) of this Master Agreement:

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

Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect,

Procure a commercial sex act during the period of time that the Recipient's Award is in effect, or

Use forced labor in the performance of the Recipient's Award or subagreements thereunder.
- (4) *Provisions Applicable to a Private Entity Recipient.* If the Recipient is a private entity, it agrees that:
- (i) *Prohibitions.* It, its employees, its Subrecipients, and its Subrecipients' employees that participate in the Underlying Agreement will not:
 - (A) Engage in severe forms of trafficking in persons during the period of time that the Recipient's Underlying Agreement is in effect;
 - (B) Procure a commercial sex act during the period of time that the Recipient's Underlying Agreement is in effect; or
 - (C) Use forced labor in the performance of the Recipient's Underlying Agreement or subagreements.

- (ii) *Termination of Federal Assistance.* Section 106(g) of the TVPA, as amended, 22 U.S.C. § 7104(g), and U.S. OMB regulatory guidance, “Award Term for Trafficking in Persons,” 2 CFR Part 175, provide FTA the right to unilaterally terminate the Underlying Agreement for a violation of that Act without penalty to the Federal Government, if FTA determines that the private entity Recipient or its Subrecipient:
 - (A) Has violated a prohibition described above in section 4(g)(4)(i) of this Master Agreement; or
 - (B) Has an employee whose conduct is determined to have violated a prohibition described above in section 4(g)(4)(i) of this Master Agreement because that employee’s conduct is either:
 - a. Associated with the performance of the Recipient’s Underlying Agreement; or
 - b. Imputed to the Recipient or Subrecipient using the standards of due process for conduct of an individual to an organization provided in:
 - i. U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR Part 1200; or
 - ii. U.S. OMB regulatory guidance, “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 CFR Part 180.
- (5) *Provisions Applicable to a Recipient That is Not a Private Entity.* A Recipient that is not a private entity agrees that section 106(g) of the TVPA, as amended, 22 U.S.C. § 7104(g), and U.S. OMB regulatory guidance, “Award Term for Trafficking in Persons,” 2 CFR Part 175, provides FTA the right to unilaterally terminate the Underlying Agreement, without penalty to the Federal Government, for a violation of that Act if FTA determines that:
- (i) A private entity that is the Subrecipient of the Recipient is determined to have engaged in severe forms of trafficking in persons during the period of time that the Recipient’s Underlying Agreement is in effect; procured a commercial sex act during the period of time that the Recipient’s Underlying Agreement is in effect; or used forced labor in

the performance of the Recipient's Underlying Agreement or subagreements thereunder; or

- (ii) An employee of a private entity that is the Subrecipient has engaged in severe forms of trafficking in persons during the period of time that the Recipient's Underlying Agreement is in effect; procured a commercial sex act during the period of time that the Recipient's Underlying Agreement is in effect; or used forced labor in the performance of the Recipient's Underlying Agreement or subagreements thereunder, and whose conduct described above is associated with the performance of the Recipient's Underlying Agreement; or is imputed to the Subrecipient using the standards for due process to impute the conduct of an individual to an organization as provided in U.S. OMB regulatory guidance, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR Part 180, and U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR Part 1200.

- (6) *Remedies Other Than Termination of Federal Assistance.* The Recipient agrees that FTA's right to terminate federal assistance as provided in the TVPA and in sections 4(f)(4)(ii) and 4(f)(5) are in addition to all other remedies for noncompliance available to the Federal Government under this Master Agreement.

- (g) *Federal Tax Liability and Recent Felony Convictions.*

- (1) *Transactions Prohibited.*

- (i) The Recipient agrees that, prior to entering into any Third Party Agreement with any private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, the Recipient will obtain from the prospective Third Party Participant a certification that the Third Party Participant—
 - (A) 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
 - (B) Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

- (ii) If the prospective Third Party Participant cannot so certify, the Recipient agrees to refer the matter to FTA and not to enter into any Third Party Agreement with the Third Party Participant without FTA's written approval.
- (2) *Flow-Down.* The Recipient agrees to require all Third Party Participants to flow this requirement down to participants at all lower tiers, without regard to the value of any subagreement.
- (h) *Debarment and Suspension.* The Recipient agrees to the following:
 - (1) It will comply with the following requirements of 2 CFR Part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 CFR Part 1200.
 - (2) It will not enter into any "covered transaction" (as that phrase is defined at 2 CFR §§ 180.220 and 1200.220) with any Third Party Participant that is, or whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions, except as authorized by—
 - (i) U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR Part 1200;
 - (ii) U.S. OMB regulatory guidance, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR Part 180; and
 - (iii) Other applicable federal laws, regulations, or requirements regarding participation with debarred or suspended Recipients or Third Party Participants.
 - (3) It will review the U.S. GSA "System for Award Management – Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs," if required by U.S. DOT regulations, 2 CFR Part 1200.
 - (4) It will ensure that its Third Party Agreements contain provisions necessary to flow down these suspension and debarment provisions to all lower tier covered transactions.
 - (5) If the Recipient suspends, debar, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the:
 - (i) FTA Regional Counsel for the Region in which the Recipient is located or implements the Underlying Agreement;

- (ii) FTA Headquarters Manager that administers the Grant or Cooperative Agreement; or
- (iii) FTA Chief Counsel.

Section 5. Federal Assistance.

- (a) *Total Federal Assistance Awarded and Obligated.* The Recipient agrees that FTA’s responsibility to provide federal assistance for its Underlying Agreement is up to the amount shown in the Underlying Agreement, as modified by any Amendments thereto, which is equal to the smallest of: (1) the maximum amount permitted by federal law or regulation, or (2) the “Total FTA Amount Awarded and Obligated,” as stated in the Underlying Agreement. FTA’s responsibility to provide federal assistance is limited to the amounts listed in the most recent Award Budget identified in the Underlying Agreement and may not exceed the federal share of the actual eligible expenses incurred for participation in the Award.
- (b) *Basis of Federal Assistance.* The Recipient agrees that the “Total FTA Amount Awarded and Obligated” stated in the Underlying Agreement and modified by any Amendments thereto is calculated based on the Net Project Cost or on another basis as set forth below:
 - (1) “*Net Project Cost.*” The Recipient agrees that if federal law or regulation requires an Underlying Agreement to be financed based on its “Net Project Cost,” as defined in 49 U.S.C. § 5302:
 - (i) FTA will provide federal assistance for a percentage of the portion of the “Total Award Budget” that the Recipient cannot reasonably finance from its revenues, which is the “Net Project Cost;”
 - (ii) FTA will use the amount of the “Total Award Budget” stated on the Underlying Agreement to calculate the “Total FTA Amount Awarded and Obligated;” and
 - (iii) In TrAMS, the amount stated as the “Total Award Budget” on the Underlying Agreement is actually the “Net Project Cost,” as defined in 49 U.S.C. § 5302.
 - (2) *Other Basis for FTA Participation.* The Recipient agrees that if federal law or FTA permits an Underlying Agreement to be financed on a basis other than its “Net Project Cost,” as defined in 49 U.S.C. § 5302, or under previous authorizing legislation:

- (i) FTA will provide federal assistance for all or part of the cost of the Underlying Agreement that is eligible for federal assistance;
 - (ii) In some instances, FTA has discretion to determine the amount of federal assistance to provide for each specific Project or related activities; and
 - (iii) FTA will use the amount stated in the Underlying Agreement as the “Total Award Budget” to calculate the “Total FTA Amount Awarded and Obligated.”
- (c) *Award Budget.* The Recipient agrees to prepare an Award Budget that, after FTA has provided its approval, will be incorporated by reference and made part of the Underlying Agreement.
- (1) *Restrictions.* The Recipient agrees that it will not incur costs eligible for FTA participation under the Award or withdraw federal assistance for eligible costs incurred unless those costs are consistent with the Award Budget.
 - (2) *Amendments to the Award Budget.* To the extent specified in applicable FTA program management guidance, the Recipient agrees that it must obtain prior FTA approval in writing before amending its Award Budget or transferring federal assistance for the Award if the transfer is not expressly authorized by federal law, regulation, or guidance. An Award of additional federal assistance will require an amended Award Budget.
 - (3) *Revisions to the Award Budget.* To the extent specified in applicable FTA program management guidance, the Recipient may revise the Award Budget without prior FTA written approval. The Recipient agrees that all other Award Budget revisions will require prior FTA approval in writing.
 - (4) *Unexpended Federal Assistance.* The Recipient agrees to inform FTA promptly if it believes it will have unexpended federal assistance after the period of performance for the Award ends.

Section 6. Non-Federal Share.

- (a) *Amount.* The Recipient agrees to provide the amount of non-federal share specified in the Underlying Agreement. Except to the extent that FTA has provided its written consent permitting the Recipient to defer payment of the non-federal share required by the Underlying Agreement, the Recipient agrees to provide its proportionate amount of the non-federal share no later than the time it draws down the federal share to pay eligible costs.

- (b) *Duty to Obtain.* The Recipient agrees to complete all proceedings necessary to provide the non-federal share and to notify FTA of any changed circumstances adversely affecting its ability to pay the non-federal share, including a description of the actions it has taken or will take to ensure adequate resources to provide the non-federal share, and a re-affirmation of its commitment to provide the non-federal share.
- (c) *Permissible Sources.* The Recipient agrees that the following are permissible sources of the non-federal share for the Award:
 - (1) Undistributed cash surpluses;
 - (2) A replacement or depreciation cash fund or reserve; and
 - (3) New capital.
- (d) *Restricted Sources.* Because sources of non-federal share differ among FTA's public transportation assistance programs, FTA will specify in an FTA circular or otherwise whether the following sources may be used as the non-federal share for a specific Award under that program:
 - (1) Program income generated by a Project or related activities supported by a prior Grant or Cooperative Agreement, which is a form of undistributed cash surplus;
 - (2) Advertising revenues;
 - (3) Concession revenues;
 - (4) Revenues from a service agreement from a state or local social service agency or a private social service organization;
 - (5) Third party in-kind contributions;
 - (6) Proceeds from the issuance of revenue bonds pursuant 49 U.S.C. § 5323(e);
 - (7) Transportation development credits (formerly toll revenue credits) pursuant to 23 U.S.C. § 120(i);
 - (8) Revenue from Value Capture pursuant to 49 U.S.C. § 5323(s);
 - (9) Federal assistance made available for the Federal Lands Highway Program authorized under 23 U.S.C. § 204; or

- (10) Federal assistance derived from other federal programs whose enabling laws permit their funds to be used as the non-federal share.
- (e) *Prohibited Sources.* Except as permitted by federal laws, regulations, requirements, or guidance, or approved in writing by FTA, the Recipient agrees that it will not provide any non-federal share for the Underlying Agreement derived from:
 - (1) Farebox revenues from providing public transportation services using facilities and equipment acquired with federal assistance for the Award;
 - (2) Program income derived from the use of facilities or equipment acquired with federal assistance for the Award, except if expressly permitted by federal laws, regulations, requirements, or FTA guidance; or
 - (3) Other federal funds not authorized for use as non-federal share by federal law, regulation, requirements, or guidance.
- (f) *Reductions or Refunds.*
 - (1) *Reductions.* The Recipient agrees that if it reduces the non-federal share of eligible costs required for the Award, then at the same time it must reduce the proportionate amount of federal assistance for the Award.
 - (2) *Refunds.* The Recipient agrees that if it accepts a refund of the non-federal share of eligible costs provided through the Underlying Agreement, then at the same time it must provide the Federal Government an amount of that refund proportionate to the federal contribution.

Section 7. Payments to the Recipient.

- (a) *Conditions for Accessing Federal Assistance.* To seek or obtain federal assistance for the costs of implementing the Award, the Recipient agrees that:
 - (1) It must execute the Underlying Agreement and any Amendments thereto;
 - (2) It must receive and file a properly signed document seeking payment for the expense, such as a voucher or other appropriate record, and a properly detailed description of the relationship of the expense to the Award;
 - (3) It must identify all sources of federal assistance from which the payment is derived;
 - (4) It must provide FTA with all financial and progress reports required to date; and

- (5) If the Recipient must provide a non-federal share, unless FTA has stated otherwise in writing that the Recipient may defer the non-federal share:
 - (i) The Recipient will not request or obtain more federal assistance than justified by the eligible non-federal share it has provided;
 - (ii) The Recipient will not cause the proportion of federal assistance available for the Award at any time to exceed the percentage of federal assistance authorized and documented in the Underlying Agreement; and
 - (iii) When combined with federal payments, the Recipient will be able to demonstrate that the non-federal share will be adequate to cover all eligible costs incurred in support of the Award.

- (b) *Eligible Costs.* Except as the Federal Government determines otherwise in writing, the Recipient agrees, and will obtain the agreement of each Subrecipient, to seek and obtain federal assistance only for the eligible costs of the Award that are:
 - (1) Consistent with the Description of Each Project, the Award Budget, this Master Agreement, and the Underlying Agreement and any Amendments thereto;
 - (2) Necessary to carry out the Award;
 - (3) Reasonable for the property or services acquired for use in the Project;
 - (4) The actual net costs, which consist of the price paid minus reductions of the costs incurred, such as any refunds, rebates, or other items of value, but excluding program income;
 - (5) Incurred for work performed after the Effective Date of the:
 - (i) Award;
 - (ii) Pre-award authority that FTA has provided; or
 - (iii) Letter of No Prejudice;
 - (6) Satisfactorily documented;
 - (7) Consistent with federally approved accounting principles and procedures, including requirements for indirect costs, consistent with the applicable U.S. DOT Common Rules; and

- (8) Consistent with applicable U.S. DOT Common Rules and other applicable federal law, regulations, requirements, and guidance.
- (c) *Ineligible Costs.* The Recipient agrees that, except as the Federal Government determines otherwise in writing, FTA will exclude ineligible costs incurred in connection with the Award or otherwise, such as:
- (1) A cost the Recipient has incurred before the Effective Date of the Award as documented in the Underlying Agreement or any Amendments thereto that is not accompanied by FTA's written approval, including, but not limited to, pre-award authority or a Letter of No Prejudice, and permitted by applicable federal law, regulation, guidance, or the Underlying Agreement or any Amendments thereto;
 - (2) A cost not included in the most recent Award Budget;
 - (3) A cost for property or services received in connection with any third party agreement lacking any FTA approval or concurrence in writing that is required;
 - (4) An ordinary governmental or operating cost not applicable to the Award, as prohibited by 49 U.S.C. § 5323(h)(1);
 - (5) A profit or fee for services provided by the Recipient or any of its Subrecipients in implementing the Award; or
 - (6) A cost that is ineligible for FTA participation as provided in applicable federal law, regulation, requirement, or guidance.
- (d) *Bond Interest and Other Financing Costs – Limited Eligibility.* The Recipient agrees that bond interest and other financing costs are allowable costs to the extent permitted by applicable federal law, regulation, requirement, or guidance. FTA's share of interest and financing costs that implement the Award will be limited to an amount that does not exceed the most favorable financing terms reasonably available at the time of borrowing, except as the Federal Government determines otherwise in writing.
- (e) *Payment Procedures Based on the Type of Federal Assistance Awarded.* The Recipient agrees that:
- (1) All payments in connection with the Award will be made through electronic methods.
 - (2) Payment procedures for a Recipient differ based upon the type of federal assistance that is awarded.

- (3) FTA determines which electronic system it will use to make payments to the Recipient as follows:
- (i) For Grants and other types of federal assistance, FTA will use the Electronic Clearinghouse Operation Web System (ECHO-Web), Automated Clearing House (ACH) payment method, except as provided below in sections 7(e)(3)(ii) and (iii) of this Master Agreement;
 - (ii) For Cooperative Agreements, FTA will use the DELPHI eInvoicing System or DELPHI Mark View System if the Recipient is granted a waiver (see the following section 7(g) of this Master Agreement for more information about payments for cooperative agreements and section 7(g) of this Master Agreement for information about accessing and using the DELPHI eInvoicing System); and
 - (iii) For Grants requiring more detailed review of supporting documentation before receiving federal assistance and as determined by the FTA Manager for the Underlying Agreement, FTA will use the DELPHI eInvoicing System (see the following section 7(g) of this Master Agreement for more information about accessing and using the DELPHI eInvoicing System).
- (f) *Payment Procedures Using ECHO.* The Recipient agrees that if payment is made through ECHO-Web using an ECHO Control Number, it will comply with the “FTA ECHO-Web User Manual,” April 2016, and it will withdraw federal assistance only to pay the eligible costs of implementing the Award.
- (1) *Major Withdrawals.* When a single withdrawal will exceed \$50,000,000, the Recipient agrees to notify the appropriate FTA Regional or Program Office at least three (3) days before the withdrawal is anticipated.
 - (2) *Immediate Use.* The Recipient agrees that it will not withdraw federal assistance until needed for immediate payment of those expenses and will use that federal assistance to pay for expenses that implement the Award no later than three (3) days after receipt, except as an authorized official of the Federal Government permits otherwise in writing.
 - (3) *Limits.* The Recipient agrees that it will not withdraw more than the sum of federal assistance the Federal Government has awarded or the current available balance for its Award, the accompanying Underlying Agreement, and any Amendments thereto, whichever is less.

- (4) *Control.* The Recipient agrees to provide for the control and accountability of all federal assistance for its Award, the accompanying Underlying Agreement, and any Amendments thereto.
- (5) *Reporting.* Unless an authorized FTA official determines otherwise in writing, the Recipient agrees to report its cash payments and balances promptly.
- (6) *Penalties.* If the Recipient fails to comply with this section of this Master Agreement, it agrees that it may incur or be subjected to penalties, including, but not limited to, the following:
 - (i) *Access to ECHO-Web.* The Federal Government may revoke or suspend the Recipient's ECHO Control Number and access to the ECHO-Web if the Federal Government determines that:
 - (A) Fraud, waste, mismanagement, or abuse exists in the Recipient's use and application of federal assistance;
 - (B) The Recipient has failed to use federal assistance it withdrew to pay costs incurred that implement the Underlying Agreement within three (3) days of withdrawing that federal assistance;
 - (C) The Recipient has failed to return withdrawn but unspent federal assistance to the Federal Government within a reasonable time;
 - (D) The Recipient has failed to establish procedures to minimize the time between advances of federal assistance and payments of costs incurred that implement the Underlying Agreement;
 - (E) The Recipient has been awarded Federal assistance through a Cooperative Agreement with FTA and will use the eInvoicing or DELPHI Mark View System as its payment method instead of the ECHO-Web System (see section 7(g)); or
 - (F) For Grants requiring a more detailed review of supporting documentation before receiving federal assistance, and as determined by the FTA Manager for the Award, the Recipient will use eInvoicing (see section 7(g)).
 - (ii) *Interest.* The Recipient agrees to pay interest to the Federal Government on any federal assistance withdrawn prematurely,

irrespective of whether the federal assistance has been deposited in an interest-bearing account.

- (A) *A State or State Instrumentality.* If the Recipient is a state or state instrumentality, it agrees to pay interest calculated as provided in section 5(b) of the Cash Management Improvement Act of 1990, as amended, 31 U.S.C. § 6503(b), and U.S. Department of Treasury (U.S. Treasury) regulations, “Rules and Procedures for Efficient Federal-State Funds Transfers,” 31 CFR Part 205.
 - (B) *Other than a State or State Instrumentality.* If the Recipient is not a state or state instrumentality, it agrees to pay prejudgment common law interest determined by the Federal Government, as authorized by joint U.S. Treasury and U.S. Department of Justice (joint U.S. Treasury and U.S. DOJ) regulations, “Standards for the Administrative Collection of Claims,” 31 C.F.R. § 901.9(i). The Federal Government may determine the amount of interest due, based on the amount of interest the Recipient demonstrates it earned on its premature withdrawals of federal assistance, the amount of interest based on the “Treasury tax and loan account” rate prescribed under 31 U.S.C. § 3717 for debts owed to the United States, or an amount of interest as the Federal Government otherwise determines.
- (7) *ECHO System.* If the Recipient is authorized to receive payments provided through ECHO-Web, FTA does not generally review the drawdown when made; however, FTA may review the drawdown at a later time, and subject that drawdown to an audit under a financial oversight review, a triennial review, or another audit.
- (g) *Payment Procedures for a Cooperative Agreement.* A Recipient of federal assistance through a Cooperative Agreement must use the DELPHI eInvoicing System to obtain federal payments for costs incurred that implement the Underlying Agreement, unless a waiver is granted.
- (1) *Standard Procedures.* To make and receive payments through the DELPHI eInvoicing System, the procedures below must be followed:
 - (i) *Access to the DELPHI eInvoicing System.* To access the DELPHI eInvoicing System, the Recipient:

- (A) Must have internet access to register and submit payment requests through the DELPHI eInvoicing System;
 - (B) Should contact its FTA Manager for the Underlying Agreement to obtain the required DELPHI User access form and approval;
 - (C) Must complete the required form that the FAA, Enterprise Service Center's (ESC) Help Desk uses to verify the Recipient's identity, and present it to a Notary Public for verification;
 - (D) Return that form, completed and notarized, to:
DOT Enterprise Services Center
FAA Accounts Payable, AMZ-100
PO Box 25710
Oklahoma City, OK 73125;
and
 - (E) Should contact its FTA Manager for the Underlying Agreement with any changes to its system profile information.
- (ii) *Payment Requests.* The Recipient must submit each payment request electronically through the DELPHI eInvoicing System, unless a waiver is granted; use of the DELPHI eInvoicing System requires the FTA Manager for the Underlying Agreement to review all supporting documentation before authorizing payment.
 - (iii) *Additional Information.* The U.S. DOT DELPHI eInvoicing System website at <http://www.dot.gov/cfo/delphi-einvoicing-system.html> displays additional information, including the access form and training materials a Recipient may need.
 - (iv) *Federal Responsibilities.* When FTA so requests, the Federal Aviation Administration (FAA) will make payments to FTA Recipients electronically. On behalf of FTA, FAA/ESC must process payment requests to a Recipient of federal assistance documented in its Cooperative Agreement with FTA, and will deposit that federal assistance with the Recipient's financial institution (Note: FTA no longer issues paper checks).
- (2) *Waiver Requests.* On a case-by-case basis, U.S. DOT Financial Management officials may waive the requirement for a Recipient to register and use the DELPHI eInvoicing System.

(i) *The Recipient's Responsibilities.* If the Recipient seeks a waiver from the requirement to use the DELPHI eInvoicing System:

(A) It must notify U.S. DOT and FTA by downloading the waiver request form, which can be obtained on the U.S. DOT eInvoicing website at <http://www.dot.gov/cfo/delphi-einvoicing-system.html>, and notifying its FTA Manager for the Underlying Agreement that it has requested a waiver from using the DELPHI eInvoicing System;

(B) It must send its waiver request to the Director of the Office of Financial Management, U.S. Department of Transportation, Office of the Secretary (OST), Office of Financial Management, B-30, 1200 New Jersey Avenue SE, Washington DC 20590-0001
DOTElectronicInvoicing@dot.gov; and

(C) If it obtains a waiver from the use of the DELPHI eInvoicing System, then payment will be made using the DELPHI Mark View System, and the Recipient should submit all invoices and any supporting documentation directly to:

a. FTAINVOICES@FAA.GOV (Note: no more than 10 MB of data can be transmitted at one time. For invoices greater than 10MB, split into multiple emails and notate in the subject Email 1 of 4, 2 of 4, etc.); or

b. DOT/FAA (FTA Account)
6500 South MacArthur Blvd.
AMZ-150, HQ Room 272
PO Box 26904
Oklahoma City, OK 73125-69041

(ii) *Federal Responsibilities.* FTA and U.S. DOT have the following responsibilities:

(A) The Director, OST, Office of Financial Management, will confirm or deny the waiver request within approximately 30 days.

(B) If the request is granted, then payments will be made after receipt of the required FTA reporting forms, provided the Recipient has complied with the U.S. DOT Common Rules and this Master Agreement.

- (iii) *DELPHI eInvoicing System or DELPHI Mark View System.* If the Recipient receives payments provided through the DELPHI eInvoicing System or DELPHI Mark View System, the Recipient must submit a request for payment with adequate supporting documentation for FTA to determine that:
 - (A) It has complied and is complying with the Underlying Agreement;
 - (B) It has made and is making adequate progress toward completion of the Award; and
 - (C) It has satisfied FTA that the federal assistance requested is needed for the eligible purposes of the Award in that requisition period.
 - (iv) *Reimbursement.* After it has demonstrated satisfactory compliance with this section, FTA may reimburse the federal share of the Recipient's apparent allowable costs incurred or to be incurred in the requisition period if those apparent allowable costs are consistent with the Award Budget, and those apparent allowable costs do not exceed the maximum amount of federal assistance that may be paid through the federal fiscal year of that requisition.
- (h) *Safeguarding Federal Assistance.* The Recipient agrees to deposit all federal assistance it receives in a financial institution and in an insured account whenever possible, and understands that FTA encourages it to use financial institutions owned at least fifty (50) percent by minority group members.
- (i) *The Recipient's Duty to Pay Eligible Costs.* When accompanied by appropriate documentation, the Recipient agrees to pay the eligible costs incurred that implement the Award when due, using the available federal assistance provided for the Award and the non- federal share.
- (j) *Effect of Federal Payments.* The Recipient agrees that any federal payment made for a cost incurred that is supported by its Underlying Agreement does not constitute the Federal Government's final decision about the eligibility of the cost for payment with federal assistance provided through the Underlying Agreement, or a waiver of any violation of any federal law, regulation, requirement, guidance, the Underlying Agreement or this Master Agreement.
- (k) *Revocation of Federal Assistance.* The Federal Government may revoke the unexpended portion of federal assistance for the Award after the Award has been made and executed.

- (l) *Final Cost Determination.* The Recipient acknowledges that the Federal Government will not make a final determination about the eligibility of any cost until the audit of the Award and Underlying Agreement has been completed.
- (m) *Closeout.* The Recipient agrees that closeout of the Award will not alter:
 - (1) The Recipient's obligation to return any amounts it owes the Federal Government for later refunds, corrections, or other similar actions; and
 - (2) The Federal Government's right to disallow costs and recover federal assistance based on a later audit or other review.
- (n) *Notification.* If the Federal Government determines that the Recipient is not entitled to any portion of federal assistance paid, the Federal Government will notify the Recipient in writing.
- (o) *Recovery of Improper Payments.* Unless prohibited by federal law or regulation, the Federal Government may recover any federal assistance necessary to satisfy any outstanding monetary claims it may have against the Recipient.
- (p) *Program Income.* The Recipient agrees that it may use its program income derived from a Project receiving federal assistance through the Underlying Agreement as FTA permits. In determining the total amount of program income a Recipient has earned from its Project, those costs incident to earning program income that have not been charged to the Award may be deducted from the Recipient's gross income.
 - (1) *During the Period of Performance.* The Recipient may use program income earned during the period of performance of the Underlying Agreement as follows:
 - (i) The Recipient may retain the income for other capital or operating public transportation expenses. If the Recipient chooses not to use program income for current or future FTA Grants or Cooperative Agreements or for other purposes ineligible for federal participation, then the amount of program income used for purposes ineligible for federal participation will be deducted from the total allowable costs to determine the net allowable costs.
 - (ii) For each Public Transportation Innovation, Technical Assistance, Workforce Development Project or Enhanced Mobility of Seniors and Individuals with Disabilities project, or related activities, the Recipient may add program income to the Award.

- (iii) Depending on federal statutory or regulatory restrictions, the Recipient may use the program income for the non-federal share for a future public transportation Project that will receive federal assistance provided by FTA.
- (2) *After the Award Period.* Except as FTA determines otherwise in writing, the Recipient has no obligation to the Federal Government regarding the disposition of program income earned after the end of the period of performance of the Award (i.e., after the ending date of the final Federal Financial Report).
- (q) *Profits.* The Recipient and Subrecipient may earn or keep the profits it may derive as a result of an Award, but the Recipient agrees that any such profits must be used in a manner consistent with the provisions of this Master Agreement or applicable federal guidance.
- (r) *Excess Payments, Disallowed Costs, Refunds, Claims, Debts, Interest, Penalties, Administrative Charges, and Other Amounts Owed to the Federal Government.*
 - (1) *The Recipient's Responsibility to Pay.* The Recipient agrees that after receiving notice of specific amounts due, it will pay the amount it owes the Federal Government for:
 - (i) Excess federal payments for disallowed costs;
 - (ii) Refunds due and amounts recovered from third parties or other sources;
 - (iii) Federal claims or debts;
 - (iv) Interest assessed;
 - (v) Penalties;
 - (vi) Administrative charges; or
 - (vii) Other amounts it owes the Federal Government.
 - (2) *Amount of Interest Due.* The amount of interest to be assessed depends on the procedures used to pursue payment:
 - (i) *The Debt Collection Act.* When the Federal Government uses the procedures of the Debt Collection Act of 1982, as amended, 31 U.S.C. § 3701, et seq., to collect claims or debts owed by the Recipient for any reason authorized under that Act (including excess

payments and disallowed costs), the Recipient agrees that the amount of interest it will owe will be determined by the Joint U.S. Treasury and U.S. DOJ regulations, “Standards for the Administrative Collection of Claims,” 31 CFR Part 900, specifically 31 C.F.R. § 901.9(a) – (g), or common law interest authorized by 31 C.F.R. § 901.9(i), as the Federal Government determines.

(ii) *Other Collection Processes.* When the Federal Government uses methods or procedures other than those described in 31 U.S.C. § 3701, et seq., to recover money(ies) the Recipient owes the Federal Government, the Recipient agrees that common law interest will be due as authorized by Joint U.S. Treasury and U.S. DOJ regulations, “Standards for the Administrative Collection of Claims,” 31 C.F.R. § 901.9(i), but interest for premature withdrawals of federal assistance by states or state instrumentalities will be calculated as required under Section 5(b) of the Cash Management Improvement Act of 1990, as amended, 31 U.S.C. § 6503(b), and U.S. Treasury regulations, “Rules and Procedures for Efficient Federal-State Funds Transfers,” 31 CFR Part 205.

(s) *De-obligation of Federal Assistance.* The Recipient agrees that the Federal Government may de-obligate federal assistance the Recipient has not spent both before and after closeout of the Award.

Section 8. Records and Reports Related to the Award and the Underlying Agreement.

(a) *Records.* The Recipient agrees to maintain satisfactory records of each Project and activities related in whole or in part to its Award, the accompanying Underlying Agreement, and any Amendments thereto to the extent FTA requires, including, but not limited to:

(1) *Financial Records.* Accurate financial records in its account for its Award, the accompanying Underlying Agreement, and any Amendments thereto, including, but not limited to, records of:

(i) *Assets Received that Implement the Award.* The amount of all assets it receives to implement its Award, the accompanying Underlying Agreement, and any Amendments thereto including, but not limited to all federal assistance or the value of any property the Federal Government provides that implement its Award, the accompanying Underlying Agreement, and any Amendments thereto, and all other funds and the value of any property or services it has received from sources other than the Federal Government provided for, accruing to,

or otherwise received on account of its Award, the accompanying Underlying Agreement, and any Amendments thereto.

- (ii) *Costs Incurred that Implement the Award.* Information about the costs incurred to implement its Award, the accompanying Underlying Agreement, and any Amendments thereto, including all costs incurred for the eligible property or services, detailed descriptions of the type of property or services acquired, including, but not limited, to properly executed payrolls, time records, invoices, contracts, vouchers, and other appropriate records, and detailed justifications for those costs.
 - (iii) *Program Income.* All program income derived from the use of Project property, except income FTA determines to be exempt from federal program income record requirements.
- (2) *Other Records Needed for Reports Related to the Award.* Sufficient records as needed to prepare adequate reports related to the Award that it must submit to the Federal Government.
- (3) *Formats.* Formats for records must be satisfactory to FTA and include, but are not limited to, electronic records, including any emails related to the Award, records on paper, and records created in other formats.
- (4) *Availability of Records Related to the Award.* Accessibility for review and separation from other records not related to the Award to the extent feasible must be maintained.
- (b) *Reports.* The Recipient agrees to provide to FTA, and others if FTA so directs, all reports related in whole or in part required by applicable federal laws, regulations, requirements, the Underlying Agreement, or at FTA's express direction in the number and format as FTA specifies.
- (c) *Data on Assaults on Transit Workers and Bus Impact Fatalities.* The Recipient agrees to report when required to the National Transit Database in accordance with FTA regulation 49 CFR Part 630, "National Transit Database," and applicable FTA instructions—
 - (1) Any data on assaults on transit workers of the Recipient; and
 - (2) Any data on fatalities that result from an impact with a bus.
- (d) *National Transit Database.* For each fiscal year the Recipient receives or provides to any public transportation operator federal assistance appropriated or made available

for 49 U.S.C. § 5307 (including the Passenger Ferry Grant Program) or any provision of 49 U.S.C. § 5311 (including the Tribal Transit Program):

- (1) *Reporting Requirements.* The Recipient agrees to, and assures that it will require any person that receives benefits directly from its Award (including the public transportation operators participating in its Award), the accompanying Underlying Agreement, and any Amendments thereto:
 - (i) To facilitate compliance with 49 U.S.C. § 5335(a), which authorizes the National Transit Database (NTD);
 - (ii) To conform to the NTD reporting system and the Uniform System of Accounts and Records;
 - (iii) To comply with FTA regulations, “Uniform System of Accounts and Records and Reporting System,” 49 CFR Part 630;
 - (iv) To report when required to the National Transit Database in accordance with FTA regulation 49 CFR Part 630, “National Transit Database,” and applicable FTA instructions—
 - (A) Any information relating to a transit asset inventory or condition assessment conducted by the Recipient; and
 - (B) Such other information as FTA may require; and
 - (v) To comply with any other applicable reporting regulations, and requirements, and
 - (vi) To follow FTA guidance.
 - (2) *Voluntary Compliance.* FTA encourages any Recipient that is not required to provide information for the NTD, to provide that information voluntarily.
- (e) *U.S. OMB Special Reporting Requirements.*
- (1) *Authority.* U.S. OMB has issued regulatory guidance in 2 C.F.R. § 25.220 instructing federal agencies to include special “award terms” as authorized under federal laws, including:
 - (i) The Federal Funding Accountability and Transparency Act of 2006 (FFATA), Public Law No. 109-282, September 26, 2006;

- (ii) Section 6202 of the Department of Defense Appropriations Act for Fiscal Year 2008, Public Law No. 110-252, June 30, 2008, which amended the FFATA; and
 - (iii) Section 872 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Public Law No. 110-417, October 14, 2008, which further amended the FFATA.
- (2) *Universal Identifier and System for Award Management (SAM)*. The Recipient agrees to comply with the award terms in U.S. OMB regulatory guidance, “Universal Identifier and System for Award Management (SAM),” 2 CFR Part 25, appendix A, which FTA has included in this Master Agreement at the direction of U.S. OMB:
- (i) *Requirements for the System for Award Management (SAM)*. Unless exempted from SAM as provided in 2 C.F.R. § 25.110, the Recipient agrees to:
 - (A) Maintain the currency of its information in SAM until the later of the date it submits its final financial report required under this Master Agreement, or the date it receives its final federal payment for the Underlying Agreement; and
 - (B) Review and update its information in SAM at least annually after the initial registration, and more frequently if required by changes in its information, another provision of an applicable federal or federally assisted agreement, or an applicable federal law or regulation, or U.S. OMB regulatory guidance.
 - (ii) *Requirement for a Unique Entity Identifier [Currently, the Data Universal Numbering System (DUNS) Number for SAM]*. If the Award includes federal assistance intended to support subawards, the Recipient agrees to notify each potential Subrecipient and other entity participating in the Award that:
 - (A) The potential Subrecipient or entity must provide its unique entity identifier for SAM [currently, its DUNS number] to the Recipient;
 - (B) The Recipient may not make any subaward to any potential Subrecipient or entity unless that Subrecipient or entity has provided its unique entity identifier for SAM [currently, its DUNS number] to the Recipient; and

- (C) No Subrecipient or entity, as described below in section 8(d)(4) of this Master Agreement, may receive a subaward provided through the Underlying Agreement, unless that entity has provided its unique entity identifier for SAM [currently, its DUNS number] to the Recipient.
- (3) *Reporting Subawards and Executive Compensation.* The Recipient agrees to comply with the award terms in U.S. OMB regulatory guidance, “Reporting Subaward and Executive Compensation Information,” 2 CFR Part 170, appendix A, which FTA has included in this Master Agreement at the direction of U.S. OMB.
- (4) *Reporting of First-Tier Subawards.* The Recipient agrees that when it takes an action that obligates \$25,000 or more in federal assistance for a subaward, it must report each such action as provided below, but it need not report an obligation of \$25,000 or more in federal assistance, if the Recipient is exempt from U.S. OMB’s Special Reporting Requirements as provided below.
 - (i) *Where and when to report.* The Recipient agrees to report each obligating action described below to <http://www.fsrs.gov>, and the Recipient agrees to report subaward information no later than the end of the month after the month in which the obligation was made, (*for example, if the obligation was made on October 1, 2015, the obligation must be reported by no later than November 1, 2015*).
 - (ii) *What to report.* The Recipient agrees to report the requisite information about each obligating action required by the submission instructions posted at <http://www.usaspending.gov>.
 - (iii) *Reporting Total Compensation of the Recipient’s Executives.* The Recipient agrees to report the total compensation for each of its five highest compensated executives for the preceding completed fiscal year if:
 - (A) The total federal assistance authorized to date for the Underlying Agreement is \$25,000 or more; and
 - (B) In its preceding fiscal year, the Recipient:
 - a. Received 80 percent or more of its annual gross revenues from federal assistance subject to the Transparency Act, as defined in 2 C.F.R. § 170.320 (and subawards) and/or federal procurement contracts (and subcontracts);

- b. Received \$25,000,000 or more in annual gross revenues from federal assistance subject to the Transparency Act, as defined in 2 C.F.R. § 170.320 (and subawards) and/or federal procurement contracts (and subcontracts); and
- c. The public does not have access to information about the compensation of the Recipient's executives through periodic reports filed under Section 13(a) of the Securities Exchange Act of 1934, 15 U.S.C. § 78m(a), Section 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. § 78o(d), or Section 6104 of the Internal Revenue Code of 1986, 26 U.S.C. § 6104 (to determine if the public has access to the compensation information, see the U.S. Securities and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>).

- (C) The Recipient agrees to report executive total compensation described above as part of Recipient's registration profile at <http://www.sam.gov>, and by the end of the month after the month in which the Underlying Agreement is executed and annually thereafter.
- (D) Reporting of Total Compensation of the Subrecipient's Executives. Unless exempt as provided below, the Recipient agrees to report the names and total compensation of each of its first-tier Subrecipient's five highest compensated executives for the Subrecipient's preceding completed fiscal year if:
 - a. It received 80 percent or more of its annual gross revenues from federal assistance subject to the Transparency Act, as defined in 2 C.F.R. § 170.320 (and subawards) and/or federal procurement contracts (and subcontracts); and
 - b. It received \$25,000,000 or more in annual gross revenues from federal assistance subject to the Transparency Act as defined in 2 C.F.R. § 170.320 (and subawards) and/or federal procurement contracts (and subcontracts);

c. The public does not have access to information about the compensation of the Subrecipient's executives through periodic reports filed under Section 13(a) of the Securities Exchange Act of 1934, 15 U.S.C. § 78m(a), Section 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. § 78o(d), or Section 6104 of the Internal Revenue Code of 1986, 26 U.S.C. § 6104 (to determine if the public has access to the compensation information, see the U.S. Securities and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>).

(E) The Recipient agrees to report the Subrecipient's executives' total compensation described above to FTA and elsewhere as may be determined by the Federal Government, and by the end of the month following the month during which the Recipient makes the subaward (for example, if a subaward is obligated on any date during the month of October of a given year, i.e., between October 1 and 31, the Recipient must report any required compensation information about the Subrecipient by November 30 of that year).

(F) Any Recipient that had gross income under \$300,000 from all sources in the previous tax year is exempt from those federal requirements to report subawards, and the total compensation of the five highest compensated executives of any Subrecipient.

(5) *Recipient Integrity and Performance Matters.* U.S. OMB regulatory guidance, "Recipient Integrity and Performance Matters," 2 CFR Part 200, appendix XII, contains mandatory provisions that may affect the Recipient's reporting requirements.

(f) *Closeout.* The Recipient agrees that closeout of its Award does not alter the record-keeping and reporting requirements of this section of this Master Agreement.

Section 9. Record Retention and Access to Sites of Performance.

(a) *Types of Records.* The Recipient agrees to retain, and will require its Third Party Participants to retain, complete and readily accessible records related in whole or in part to the Underlying Agreement, including, but not limited to, data, documents, reports, statistics, subagreements, leases, third party contracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

- (b) *Retention Period.* The Recipient agrees to comply with the record retention requirements in the applicable U.S. DOT Common Rule. Records pertaining to its Award, the accompanying Underlying Agreement, and any Amendments thereto must be retained from the day the Underlying Agreement was signed by the authorized FTA official through the course of the Award, the accompanying Underlying Agreement, and any Amendments thereto until three years after the Recipient has submitted its last or final expenditure report, and other pending matters are closed.
- (c) *Access to Recipient and Third Party Participant Records.* The Recipient agrees, and assures that each Subrecipient, if any, will agree to:
 - (1) Provide, and require its Third Party Participants at each tier to provide, sufficient access to inspect and audit records and information, including such records and information the Recipient or its Third Party Participants may regard as confidential or proprietary, related to its Award, the accompanying Underlying Agreement, and any Amendments thereto to the U.S. Secretary of Transportation or the Secretary's duly authorized representatives, to the Comptroller General of the United States, and the Comptroller General's duly authorized representatives, and to the Recipient and each of its Subrecipients;
 - (2) Permit those individuals listed above to inspect all work and materials related to its Award, and to audit any information related to its Award under the control of the Recipient or Third Party Participant within books, records, accounts, or other locations; and
 - (3) Otherwise comply with 49 U.S.C. § 5325(g), and federal access to records requirements as set forth in the applicable U.S. DOT Common Rules.
- (d) *Access to the Sites of Performance.* The Recipient agrees to permit, and to require its Third Party Participants to permit, FTA to have access to the sites of performance of its Award, the accompanying Underlying Agreement, and any Amendments thereto, and to make site visits as needed in compliance with the U.S. DOT Common Rules.
- (e) *Closeout.* Closeout of the Award does not alter the record retention or access requirements of this section of this Master Agreement.

Section 10. Completion, Audit, Settlement, and Closeout.

- (a) *Completion.* Within one hundred twenty (120) calendar days after completion or termination of the Award, the Recipient agrees to submit; and within ninety (90) calendar days after completion or termination of the Award (or an earlier date as

agreed upon by the pass-through entity and subrecipient), the subrecipient agrees to submit to the pass-through entity:

- (1) Its final Federal Financial Report, either electronically or on Federal Financial Report Standard Form 425 (SF-425);
 - (2) A certification of expenses incurred that implement its Award, the accompanying Underlying Agreement, and any Amendments thereto; and
 - (3) The necessary audit reports of its Award, the accompanying Underlying Agreement, and any Amendments thereto.
- (b) *Audit of the Recipient.* Except as the Federal Government determines otherwise in writing, the Recipient agrees that:
- (1) *Audits Required.* It must obtain the following audits:
 - (i) *Annual "Single Audit."* A financial and compliance audit consistent with the requirements of the Single Audit Act Amendments of 1996, 31 U.S.C. § 7501, et seq., and applicable U.S. DOT "Single Audit" requirements of 2 CFR Part 1201, which incorporate by reference 2 CFR Part 200, for each Award, the accompanying Underlying Agreement, and any Amendments to any Underlying Agreement; and
 - (ii) *Other Audits.* Other audits the Federal Government may require.
 - (2) *Auditing Standards.* It must comply with the "Audit Requirements" of 2 CFR Part 200, subpart F, and conform to U.S. Government Accountability Office (U.S. GAO) "Government Auditing Standards" in the conduct of audits of its Award, the accompanying Underlying Agreement, and any Amendments thereto.
 - (3) *Costs of Audits.* The audit costs for the administration and management of the Award, the accompanying Underlying Agreement, and any Amendments to any Underlying Agreement are allowable to the extent authorized by the cost principles of 49 CFR Part 1201, which incorporate by reference 2 CFR Part 200.
- (c) *Amounts Owed to the Federal Government.* The Recipient agrees to return to the Federal Government any excess federal payments it receives for disallowed costs, and the Federal Government's proportionate part of any amounts it recovers from third parties or other sources, including refunds due and amounts recovered from third parties or other sources, interest assessed, penalties, and administrative charges.

- (d) *Closeout.* The Recipient agrees that closeout of the Award occurs when FTA notifies the Recipient that the Award is closed, and approves the final federal payment, or acknowledges receipt of the proper refund. Closeout of the Award does not alter the Recipient's audit responsibilities and does not invalidate any continuing requirements of applicable federal law, regulations, or requirements, this Master Agreement or the Underlying Agreement.

Section 11. Right of the Federal Government to Terminate.

- (a) *Justification.* After providing written notice to the Recipient, the Recipient agrees that the Federal Government may suspend, suspend then terminate, or terminate all or any part of the federal assistance for the Award if:
 - (1) The Recipient has failed to make reasonable progress implementing the Award;
 - (2) The Federal Government determines that continuing to provide federal assistance to support the Award does not adequately serve the purposes of the law authorizing the Award; or
 - (3) The Recipient has violated the terms of the Underlying Agreement, especially if that violation would endanger substantial performance of the Underlying Agreement.
- (b) *Financial Implications.* In general, termination of federal assistance for the Award will not invalidate obligations properly incurred before the termination date to the extent that those obligations cannot be canceled. The Federal Government may recover the federal assistance it has provided for the Award, including the federal assistance for obligations properly incurred before the termination date, if it determines that the Recipient has misused its federal assistance by failing to make adequate progress, failing to make appropriate use of the Project property, or failing to comply with the Underlying Agreement, and require the Recipient to refund the entire amount or a lesser amount, as the Federal Government may determine including obligations properly incurred before the termination date.
- (c) *Expiration of the Period of Performance.* Except for a Full Funding Grant Agreement, expiration of any period of performance established for the Award does not, by itself, constitute an expiration or termination of the Award; FTA may extend the period of performance to assure that each Formula Project or related activities and each Project or related activities funded with "no year" funds can receive FTA assistance to the extent FTA deems appropriate.

- (d) *Uniform Administrative Requirements.* These termination rights are in addition to and in no way limit the Federal Government’s rights to terminate described in 2 CFR § 200.340.

Section 12. Civil Rights.

- (a) *Civil Rights Requirements.* The Recipient agrees that it must comply with applicable federal civil rights laws, regulations, and requirements, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or a federal program, including the Indian Tribe Recipient or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with each civil rights statute, including compliance with equity in service requirements.
- (b) *Nondiscrimination in Federal Public Transportation Programs.* The Recipient agrees to, and assures that it and each Third Party Participant will:
 - (1) Prohibit discrimination based on race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age.
 - (2) Prohibit the:
 - (i) Exclusion from participation in employment or a business opportunity for reasons identified in 49 U.S.C. § 5332;
 - (ii) Denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332; or
 - (iii) Discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.
 - (3) Follow:
 - (i) The most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance; but
 - (ii) FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its Underlying Agreement supported with federal assistance under the Tribal Transit Program.

- (c) *Nondiscrimination – Title VI of the Civil Rights Act.* The Recipient agrees to, and assures that each Third Party Participant will:
- (1) Prohibit discrimination based on race, color, or national origin,
 - (2) Comply with:
 - (i) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq.;
 - (ii) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 CFR Part 21; and
 - (iii) Federal transit law, specifically 49 U.S.C. § 5332; and
 - (3) Follow:
 - (i) The most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance;
 - (ii) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 C.F.R. § 50.3; and
 - (iii) All other applicable federal guidance that may be issued.
- (d) *Equal Employment Opportunity.*
- (1) *Federal Requirements and Guidance.* The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin, and:
 - (i) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq.;
 - (ii) Comply with Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.;
 - (iii) Facilitate compliance with Executive Order No. 11246, “Equal Employment Opportunity” September 24, 1965 (42 U.S.C. § 2000e note), as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs;

- (iv) Comply with federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement;
 - (v) FTA Circular 4704.1 “Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients;” and
 - (vi) Follow other federal guidance pertaining to EEO laws, regulations, and requirements.
- (2) *Specifics.* The Recipient agrees to, and assures that each Third Party Participant will:
- (i) *Affirmative Action.* If required to do so by U.S. DOT regulations (49 CFR Part 21) or U.S. Department of Labor regulations (41 C.F.R. chapter 60), take affirmative action that includes, but is not limited to:
 - (A) Recruitment advertising, recruitment, and employment;
 - (B) Rates of pay and other forms of compensation;
 - (C) Selection for training, including apprenticeship, and upgrading; and
 - (D) Transfers, demotions, layoffs, and terminations; but
 - (ii) *Indian Tribe.* Recognize that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of “Employer;” and
- (3) *Equal Employment Opportunity Requirements for Construction Activities.* Comply, when undertaking “construction” as recognized by the U.S. Department of Labor (U.S. DOL), with:
- (i) U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. chapter 60; and
 - (ii) Executive Order No. 11246, “Equal Employment Opportunity in Federal Employment,” September 24, 1965, 42 U.S.C. § 2000e note (30 Fed. Reg. 12319, 12935), as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.

- (e) *Disadvantaged Business Enterprise.* To the extent authorized by applicable federal laws, regulations, or requirements, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as “Disadvantaged Business Enterprises” (DBEs), in the Underlying Agreement as follows:
- (1) *Statutory and Regulatory Requirements.* The Recipient agrees to comply with:
 - (i) Section 11101(e) of IIJA;
 - (ii) U.S. DOT regulations, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 CFR Part 26; and
 - (iii) Federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement.
 - (2) *DBE Program Requirements.* A Recipient that receives planning, capital and/or operating assistance and that will award prime third party contracts exceeding \$250,000 in a federal fiscal year must have a DBE program that is approved by FTA and meets the requirements of 49 CFR Part 26.
 - (3) *Special Requirements for a Transit Vehicle Manufacturer (TVM).* The Recipient agrees that:
 - (i) *TVM Certification.* Each TVM, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 CFR Part 26; and
 - (ii) *Reporting TVM Awards.* Within 30 days of any third party contract award for a transit vehicle purchase, the Recipient must submit to FTA the name of the TVM contractor and the total dollar value of the third party contract using the Transit Vehicle Award Reporting Form on FTA’s website. The Recipient must also submit additional notifications if options are exercised in subsequent years to ensure that the TVM is still in good standing.
 - (4) *Assurance.* As required by 49 C.F.R. § 26.13(a):
 - (i) *Recipient Assurance.* The Recipient agrees and assures that:

- (A) It must not discriminate based on race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted contract, or in the administration of its DBE program or the requirements of 49 CFR Part 26;
 - (B) It must take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted contracts;
 - (C) Its DBE program, as required under 49 CFR Part 26 and as approved by U.S. DOT, is incorporated by reference and made part of the Underlying Agreement; and
 - (D) Implementation of its DBE program approved by U.S. DOT is a legal obligation and failure to carry out its terms shall be treated as a violation of this Master Agreement.
- (ii) *Subrecipient/Third Party Contractor/Third Party Subcontractor Assurance.* The Recipient agrees and assures that it will include the following assurance in each subagreement and third party contract it signs with a Subrecipient or Third Party Contractor and agrees to obtain the agreement of each of its Subrecipients, Third Party Contractors, and Third Party Subcontractors to include the following assurance in every subagreement and third party contract it signs:
- (A) The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must not discriminate based on race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, and third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 CFR Part 26;
 - (B) The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted subagreements, third party contracts, and third party subcontracts, as applicable;
 - (C) Failure by the Subrecipient and any of its Third Party Contractors or Third Party Subcontractors to carry out the requirements of this subparagraph 12.e(4)(ii) is a material

breach of this subagreement, third party contract, or third party subcontract, as applicable; and

- (D) The following remedies, or such other remedy as the Recipient deems appropriate, include, but are not limited to, withholding monthly progress payments, assessing sanctions, liquidated damages, and/or disqualifying the Subrecipient, Third Party Contractor, or Third Party Subcontractor from future bidding as non-responsible.
- (5) *Remedies.* Upon notification to the Recipient of its failure to carry out its approved program, FTA or U.S. DOT may impose sanctions as provided for under 49 CFR Part 26, and, in appropriate cases, refer the matter for enforcement under either or both 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801, et seq.
- (f) *Nondiscrimination on the Basis of Sex.* The Recipient agrees to comply with federal prohibitions against discrimination based on sex, including:
- (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681, et seq.;
 - (2) U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR Part 25; and
 - (3) Federal transit law, specifically 49 U.S.C. § 5332.
- (g) *Nondiscrimination on the Basis of Age.* The Recipient agrees to comply with federal prohibitions against discrimination based on age, including:
- (1) The Age Discrimination in Employment Act, 29 U.S.C. §§ 621 – 634, which prohibits discrimination based on age;
 - (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, “Age Discrimination in Employment Act,” 29 CFR Part 1625;
 - (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101, et seq., which prohibits discrimination against individuals based on age in the administration of Programs, Projects, and related activities receiving federal assistance;
 - (4) U.S. Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 CFR Part 90; and

- (5) Federal transit law, specifically 49 U.S.C. § 5332.
- (h) *Nondiscrimination on the Basis of Disability*. The Recipient agrees to comply with the following federal prohibitions against discrimination based on disability:
 - (1) Federal laws, including:
 - (i) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination based on disability in the administration of federally assisted Programs, Projects, or activities;
 - (ii) 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:
 - (A) For FTA Recipients generally, Titles I, II, and III of the ADA apply; but
 - (B) For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of “employer;”
 - (iii) 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;
 - (iv) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination; and
 - (v) Other applicable federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.
 - (2) Federal regulations and guidance, including:
 - (i) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR Part 37;
 - (ii) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 CFR Part 27;
 - (iii) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 49 CFR Part 38;

- (iv) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 CFR Part 39;
 - (v) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 CFR Part 35;
 - (vi) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 CFR Part 36;
 - (vii) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR Part 1630;
 - (viii) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 CFR Part 64, subpart F;
 - (ix) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 CFR Part 1194;
 - (x) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 CFR Part 609;
 - (xi) FTA Circular 4710.1, “Americans with Disabilities Act: Guidance;” and
 - (xii) Other applicable federal civil rights and nondiscrimination regulations and guidance.
- (i) *Drug or Alcohol Abuse – Confidentiality and Other Civil Rights Protections.* The Recipient agrees to comply with the confidentiality and civil rights protections of:
- (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101, et seq.;
 - (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541, et seq.; and
 - (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2.
- (j) *Access to Services for Persons with Limited English Proficiency.* The Recipient agrees to promote accessibility of public transportation services to persons with limited understanding of English by following:

- (1) Executive Order No. 13166, “Improving Access to Services for Persons with Limited English Proficiency,” August 11, 2000, 42 U.S.C. § 2000d-1 note, (65 Fed. Reg. 50121); and
 - (2) U.S. DOT Notice, “DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficiency (LEP) Persons,” 70 Fed. Reg. 74087, December 14, 2005.
- (k) *Other Nondiscrimination Laws, Regulations, Requirements, and Guidance.* The Recipient agrees to comply with other applicable federal nondiscrimination laws, regulations, and requirements, and follow federal guidance prohibiting discrimination.
- (l) *Remedies.* Remedies for failure to comply with applicable federal Civil Rights laws, regulations, and requirements, and failure to follow guidance may be enforced as provided in those federal laws, regulations, requirements, or guidance.
- (m) *Promoting Free Speech and Religious Liberty.* The recipient 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.

Section 13. Planning.

- (a) *Standard Planning Provisions.* The Recipient agrees to the following:
- (1) *Planning Requirements and Guidance.* To assure that its Underlying Agreement is consistent with the Planning requirements that apply, the Recipient agrees to:
 - (i) Comply with the Metropolitan planning requirements of 49 U.S.C. § 5303, and joint FHWA and FTA regulations, “Planning and Assistance Standards” (for Metropolitan Transportation Planning and Programming), 23 CFR Part 450 and 49 CFR Part 613, to the extent those regulations are consistent with the metropolitan planning requirements of 49 U.S.C. § 5303;
 - (ii) Comply with the statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304, and joint FHWA and FTA regulations, “Planning and Assistance Standards” (for statewide transportation planning and programming), 23 CFR Part 450 and 49 CFR Part 613, to the extent those regulations are consistent with the state planning requirements of 49 U.S.C. § 5304; and

- (iii) Follow any guidance FTA issues to implement requirements of 49 U.S.C. §§ 5303 and 5304.
- (2) *Participation of State or Local Governmental and Private Nonprofit Providers of Nonemergency Transportation.* The Recipient agrees to comply with 49 U.S.C. § 5323(k) by assuring that it will, as feasible:
 - (i) Provide the opportunity to participate and coordinate with the Recipient in the design and the delivery of federally assisted transportation services, and be included in planning for the Recipient's federally assisted transportation services; and
 - (ii) Make that opportunity available to federally-assisted state or local governmental agencies and nonprofit organizations that receive federal assistance for nonemergency transportation, but do not receive federal assistance for nonemergency transportation from U.S. DOT.
- (b) *Tribal Transit Program Planning Provisions.* The Indian Tribe agrees that:
 - (1) *Planning Requirements.* The federal assistance it receives for its Tribal Transit Program will be consistent with its documents, including any formal plan provided to FTA in support of the development and basis of its Award of federal assistance under the Tribal Transit Program, and are or will be coordinated with transportation service funded by other federal sources to the maximum extent feasible.
 - (2) *Participation of State or Local Governmental and Private Nonprofit Providers of Nonemergency Transportation.* The Recipient agrees to comply with 49 U.S.C. § 5323(k) by assuring that it will, as feasible:
 - (i) Provide the opportunity to participate and coordinate with the Recipient in the design and the delivery of federally assisted transportation services, and be included in planning for the Recipient's federally assisted transportation services; and
 - (ii) Make that opportunity available to federally-assisted state or local governmental agencies and nonprofit organizations that receive federal assistance for nonemergency transportation, but do not receive federal assistance for nonemergency transportation from U.S. DOT.

Section 14. Private Enterprise.

- (a) *Protections.* The Recipient agrees to protect the interests of private enterprise affected by federal public transportation programs by:

- (1) Encouraging private enterprise to participate in the planning of public transportation and programs that provide public transportation, to the extent permitted under 49 U.S.C. § 5306; and
 - (2) Providing just compensation for the Project property it acquires, including the franchises of private providers of public transportation, as required under 49 U.S.C. § 5323(a)(1)(C).
- (b) *Infrastructure Investment.* The Recipient agrees to follow the infrastructure investment recommendations of:
- (1) Executive Order No. 12803, “Infrastructure Privatization,” April 30, 1992, 31 U.S.C. § 501 note (57 Fed. Reg. 19,036); and
 - (2) Executive Order No. 12893, “Principles for Federal Infrastructure Investments,” January 26, 1994, 31 U.S.C. § 501 note (59 Fed. Reg. 4233).
- (c) *Joint Development.* If joint development is involved, the Recipient agrees to follow the latest edition of FTA Circular 7050.1, “Federal Transit Administration Guidance on Joint Development.”

Section 15. Preference for United States Products and Services.

Except as the Federal Government determines otherwise in writing, the Recipient agrees to comply with FTA’s U.S. domestic preference requirements and follow federal guidance, including:

- (a) *Buy America.* The domestic preference procurement requirements of 49 U.S.C. § 5323(j), and FTA regulations, “Buy America Requirements,” 49 CFR Part 661, to the extent consistent with 49 U.S.C. § 5323(j);
- (b) *Build America, Buy America Act.* 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’s “Buy America Preferences for Infrastructure Projects,” 2 CFR Part 184. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b). In accordance with 2 CFR § 184.2(a), the Recipient shall apply the standards of 49 CFR Part 661 to iron, steel, and manufactured products.
- (c) *Cargo Preference–Use of United States-Flag Vessels.* At least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this agreement, and which may be transported by ocean vessel, shall be transported

on privately owned United States-flag commercial vessels, if available. 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, “Cargo Preference – U.S.-Flag Vessels,” 46 CFR Part 381. Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments 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 46 CFR § 381.7(a)(1) shall be furnished to both the recipient (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

- (d) *Fly America*. The air transportation requirements of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations, “Use of United States Flag Air Carriers,” 41 C.F.R. §§ 301-10.131 – 301-10.143.
- (e) *Uniform Administrative Requirements*. Compliance with FTA’s “Buy America Requirements,” 49 CFR Part 661, and “Buy America Preferences for Infrastructure Projects,” 2 CFR Part 184, as described in this Master Agreement shall be deemed to satisfy 2 CFR § 200.322, “Domestic Preferences for Procurements.”
- (f) *Limitation on Certain Rolling Stock Procurements*. The Recipient will comply with the limitation on certain rolling stock procurements at 49 U.S.C. § 5323(u).

Section 16. Procurement.

- (a) *Federal Laws, Regulations, Requirements, and Guidance*. The Recipient agrees:
 - (1) To comply with the requirements of 49 U.S.C. chapter 53 and other applicable federal laws, regulations, and requirements in effect now or later that affect its third party procurements;
 - (2) To comply with the applicable U.S. DOT Common Rules; and
 - (3) To follow the most recent edition and any revisions of FTA Circular 4220.1, “Third Party Contracting Guidance,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance.
- (b) *Full and Open Competition*. The Recipient agrees to conduct all its third party procurements using full and open competition as provided in 49 U.S.C. § 5325(a), and as determined by FTA.
- (c) *Exclusionary or Discriminatory Specifications*. The Recipient agrees that it will not use any federal assistance under 49 U.S.C. chapter 53 for any procurement based on

exclusionary or discriminatory specifications, as provided in 49 U.S.C. § 5325(h), unless authorized by other applicable federal laws, regulations, or requirements.

- (d) *Required Clauses in Third Party Contracts.* In addition to other applicable provisions of federal law, regulations, requirements, and guidance, all third party contracts made by the Recipient under the Federal award must contain provisions covering the following, as applicable:
- (1) *Simplified Acquisition Threshold.* Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.327. The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America’s eligibility and process requirements apply to any procurement in excess of \$150,000. 49 U.S.C. § 5323(j)(13).)
 - (2) *Termination.* All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-federal entity including the manner by which it will be effected and the basis for settlement.
 - (3) *Equal Employment Opportunity.* Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order No. 11246, “Equal Employment Opportunity,” 42 U.S.C. § 2000e note (30 Fed. Reg. 12319, 12935, 3 C.F.R. 1964–1965 Comp., p. 339), as amended by Executive Order No. 11375, “Amending Executive Order No. 11246 Relating to Equal Employment Opportunity,” (32 Fed. Reg. 14,303) and implementing regulations at 41 CFR Part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
 - (4) *Federally Assisted Construction Contracts.* Pursuant to 41 CFR § 60-1.4(b)(1): The applicant [Recipient] hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds

obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, and orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract

or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

- (5) (2) [Reserved] *Davis-Bacon Act, as amended (40 U.S.C. §§ 3141 – 3148)*. When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141 – 3144, and 3146 – 3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction,

completion, or repair of a public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency.

- (6) *Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701 – 3708).* Where applicable, 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 (29 CFR Part 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer based on 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. 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.
- (7) *Rights to Inventions Made Under a Contract or Agreement.* If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- (8) *Clean Air Act (42 U.S.C. §§ 7401 – 7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 – 1388), as amended.* Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401 – 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 – 1388). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

- (9) *Debarment and Suspension (Executive Orders 12549 and 12689)*. A covered transaction (see 2 C.F.R. §§ 180.220 and 1200.220) must not be entered into with any party listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. 180 that implement Executive Orders 12549 (31 U.S.C. § 6101 note, 51 Fed. Reg. 6370,) and 12689 (31 U.S.C. § 6101 note, 54 Fed. Reg. 34131), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Recipient agrees to include, and require each Third Party Participant to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:
- (1) Complies with federal debarment and suspension requirements; and
 - (2) Reviews the SAM at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 CFR Part 1200.
- (10) *Restrictions on Lobbying (31 U.S.C. § 1352)*. Contractors that apply or bid for an award exceeding \$100,000 must file the certification required by 49 CFR Part 20. 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 must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.
- (11) *Solid Wastes*. 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.

- (e) *Geographic Restrictions.* The Recipient agrees that it will not use any state or local geographic preference, except as permitted by federal law (for example, Section 25019 of the Infrastructure Investment and Jobs Act of 2021, Pub. L. 117-58), regulation, requirement, or guidance.
- (f) *In-State Bus Dealer Restrictions.* The Recipient agrees that any state law requiring buses to be purchased through in-state dealers will not apply to purchases of vehicles supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, as provided in 49 U.S.C. § 5325(i).
- (g) *Organizational Conflict of Interest.* The Recipient agrees that it will not enter into a procurement that involves a real or apparent organizational conflict of interest.
- (h) *Project Labor Agreements.* As a condition of a third party contract award, the Recipient may require the Third Party Contractor or Subcontractor to have an affiliation with a labor organization, such as a Project Labor Agreement, consistent with Executive Order No. 13502, “Use of Project Labor Agreements for Federal Construction Projects,” February 6, 2009 (74 Fed. Reg. 6985).
- (i) *Force Account.* The Recipient agrees that FTA may determine the extent to which Federal assistance may be used to participate in force account costs.
- (j) *FTA Technical Review.* The Recipient agrees that FTA may review and approve the Recipient’s technical specifications and requirements to the extent FTA believes necessary to ensure proper administration of the Underlying Agreement.
- (k) *Relationship of the Award to Third Party Contract Approval.* The Recipient agrees that the terms of the Underlying Agreement do not, by themselves, constitute approval of any non- competitive third party contract associated with the Award, unless FTA indicates otherwise in writing.
- (l) *National Intelligent Transportation Systems Architecture and Standards.* The Recipient agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture requirements of 23 U.S.C. § 517(d), unless it obtains an exemption from those requirements, and to follow FTA Notice, “FTA National ITS Architecture Policy on Transit Projects,” 66 Fed. Reg. 1455, January 8, 2001, and all other applicable federal guidance.
- (m) *Rolling Stock.* The Recipient agrees that any procurement for rolling stock will comply with 49 U.S.C. § 5325 (Contract Requirements), 49 U.S.C. § 5323(j) (Buy America Requirements), 49 U.S.C. § 5323(m) (Pre-Award and Post Delivery Requirements), and 49 U.S.C. § 5318(e) (Bus Testing Requirements), 49 U.S.C. § 5323(u) (limitation on certain rolling stock procurements), and their implementing regulations.

- (n) *Bonding.* The Recipient agrees to comply with the following bonding requirements and restrictions as provided in federal regulations and guidance:
- (1) *Construction.* As provided in federal regulations and modified by FTA guidance, for each Project or related activities implementing the Underlying Agreement that involve construction, it will provide bid guarantee bonds, contract performance bonds, and payment bonds.
 - (2) *Activities Not Involving Construction.* For each Project or related activities implementing the Underlying Agreement not involving construction, the Recipient will not impose excessive bonding and will follow FTA guidance.
- (o) *Architectural Engineering and Related Services.* When procuring architectural engineering or related services supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53 or provided in any other law requiring the Award to be administered under 49 U.S.C. chapter 53, the Recipient agrees to comply and assures that each of its Subrecipients will comply with 49 U.S.C. § 5325(b).
- (p) *Design-Build Projects.* As provided in 49 U.S.C. § 5325(d), the Recipient may use a design- build procurement to carry out its Design-Build Project, provided that it complies with applicable federal laws, regulations, and requirements, and follows federal guidance.
- (q) *Award to Other than the Lowest Bidder.* As permitted under 49 U.S.C. § 5325(c), the Recipient may award a third party contract to other than the lowest bidder, if that award furthers an objective (for example, improved long-term operating efficiency and lower long- term costs) consistent with the purposes of 49 U.S.C. chapter 53 and any implementing federal regulations, requirements, or guidance that FTA may issue.
- (r) *Award to Responsible Third Party Contractors.* The Recipient agrees to award third party contracts only to contractors able to carry out the procurement successfully, as provided in 49 U.S.C. § 5325(j), and before awarding a third party contract, it will consider the proposed contractor’s integrity, compliance with public policy, past performance, and financial and technical resources.
- (s) *Access to Third Party Contract Records.* The Recipient agrees to require, and assures that each of its Subrecipients will require, its Third Party Contractors at each tier to provide:
- (1) The U.S. Secretary of Transportation and the Comptroller General of the United States, the state, or their duly authorized representatives, access to all

third party contract records (at any tier) as required under 49 U.S.C. § 5325(g); and

- (2) Sufficient access to all third party contract records (at any tier) as needed for compliance with applicable federal laws, regulations, and requirements or to assure proper management of Underlying Agreement as determined by FTA.
- (t) *Electronic and Information Technology.* The Recipient agrees that reports or information it provides to or on behalf of the Federal Government will use electronic or information technology that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794d, and U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 CFR Part 1194.
- (u) *Veterans Preference.* As provided in 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:
- (1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53; and
 - (2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.
- (v) *Acquisition by Lease.* The Recipient agrees that if it intends to acquire Project property through a lease it will comply, as applicable, with 49 U.S.C. chapter 53 and section 3019 of the FAST Act.
- (w) *Bid Protests.* The Recipient agrees to provide FTA, as part of the annual or quarterly Milestone Progress Report, with a list of all bid protests and appeals for solicitations or contracts in excess of \$500,000. The Recipient also should be mindful of the requirement in Section 39, Disputes, that the Recipient must promptly notify the FTA Chief Counsel, or FTA Regional Counsel for the Region in which the Recipient is located, of significant current or prospective legal matters that may affect the Federal Government.

Section 17. Patent Rights.

- (a) *General.* The Recipient agrees that:

- (1) Depending on the nature of the Underlying Agreement, the Federal Government may acquire patent rights when the Recipient or Third Party Participant produces a patented or patentable invention, improvement, or discovery;
 - (2) The Federal Government's rights arise when the patent or patentable information is conceived or reduced to practice with federal assistance provided through the Underlying Agreement; or
 - (3) When a patent is issued or patented information becomes available as described in the preceding section 17(a)(2) of this Master Agreement, the Recipient will notify FTA immediately and provide a detailed report satisfactory to FTA.
- (b) *Federal Rights.* The Recipient agrees that:
- (1) Its rights and responsibilities and each Third Party Participant's rights and responsibilities in that federally assisted invention, improvement, or discovery will be determined as provided in applicable federal laws, regulations, requirements, and guidance, including any waiver thereof; and
 - (2) Unless the Federal Government determines otherwise in writing, irrespective of its status or the status of any Third Party Participant as a large business, small business, state government, state instrumentality, local government, Indian tribe, nonprofit organization, institution of higher education, or individual, the Recipient will transmit the Federal Government's patent rights to FTA, as specified in 35 U.S.C. § 200, et seq., and U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR Part 401.
- (c) *License Fees and Royalties.* Consistent with the applicable U.S. DOT Common Rules, the Recipient agrees that license fees and royalties for patents, patent applications, and inventions produced with federal assistance provided through the Underlying Agreement are program income, and must be used in compliance with applicable federal requirements.

Section 18. Rights in Data and Copyrights.

- (a) *Definition of "Subject Data."* As used in this section, "subject data" means recorded information, whether or not copyrighted, that is delivered or specified to be delivered as required by the Underlying Agreement. Examples of subject data include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item

identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Underlying Agreement.

- (b) *General Federal Restrictions.* The following restrictions apply to all subject data first produced in the performance of the Underlying Agreement:
- (1) *Prohibitions.* The Recipient may not publish or reproduce any subject data, in whole, in part, or in any manner or form, or permit others to do so.
 - (2) *Exceptions.* The prohibitions do not apply to publications or reproductions for the Recipient's own internal use, an institution of higher learning, the portion of subject data that the Federal Government has previously released or approved for release to the public, or the portion of data that has the Federal Government's prior written consent for release.
- (c) *Federal Rights in Data and Copyrights.* The Recipient agrees that:
- (1) *General.* It must provide a license to its subject data to the Federal Government that is royalty-free, non-exclusive, and irrevocable. The Federal Government's license must permit the Federal Government to reproduce, publish, or otherwise use the subject data or permit other entities or individuals to use the subject data provided those actions are taken for Federal Government purposes; and
 - (2) *U.S. DOT Public Access Plan – Copyright License.* The Recipient grants to U.S. DOT a worldwide, non-exclusive, non-transferable, paid-up, royalty-free copyright license, including all rights under copyright, to any and all Publications and Digital Data Sets as such terms are defined in the U.S. DOT Public Access plan, resulting from scientific research funded either fully or partially by this funding agreement. The Recipient herein acknowledges that the above copyright license grant is first in time to any and all other grants of a copyright license to such Publications and/or Digital Data Sets, and that U.S. DOT shall have priority over any other claim of exclusive copyright to the same.
- (d) *Special Federal Rights in Data for Research, Development, Demonstration, Deployment, Technical Assistance, and Special Studies Programs.* In general, FTA's purpose in providing federal assistance for a research, development, demonstration, deployment, technical assistance, or special studies program is to increase transportation knowledge, rather than limit the benefits of the Award to the Recipient and its Third Party Participants. Therefore, the Recipient agrees that:

- (1) *Publicly Available Report.* When an Award providing federal assistance for any of the programs described above is completed, it must provide a report of the Underlying Agreement that FTA may publish or make available for publication on the Internet.
 - (2) *Other Reports.* It must provide other reports related to the Award that FTA may request.
 - (3) *Availability of Subject Data.* FTA may make available its copyright license to the subject data, and a copy of the subject data to any FTA Recipient or any Third Party Participant at any tier, except as the Federal Government determines otherwise in writing.
 - (4) *Identification of Information.* It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA.
 - (5) *Incomplete.* If the Award is not completed for any reason whatsoever, all data developed with federal assistance for the Award becomes subject data and must be delivered as the Federal Government may direct.
 - (6) *Exception.* This section does not apply to an adaptation of any automatic data processing equipment or program that is both for the Recipient's use, and acquired with FTA capital program assistance.
- (e) *License Fees and Royalties.* Consistent with the applicable U.S. DOT Common Rules, the Recipient agrees that license fees and royalties for patents, patent applications, and inventions produced with federal assistance provided through the Underlying Agreement are program income, and must be used in compliance with federal applicable requirements.
- (f) *Hold Harmless.* Upon request by the Federal Government, the Recipient agrees that if it intentionally violates any proprietary rights, copyrights, or right of privacy, and if its violation under the preceding section occurs from any of the publication, translation, reproduction, delivery, use or disposition of subject data, then it will indemnify, save, and hold harmless the Federal Government against any liability, including costs and expenses of the Federal Government's officers, employees, and agents acting within the scope of their official duties. The Recipient will not be required to indemnify the Federal Government for any liability described in the preceding sentence, if the violation is caused by the wrongful acts of federal officers, employees or agents, or if indemnification is prohibited or limited by applicable state law.
- (g) *Restrictions on Access to Patent Rights.* Nothing in this section of this Master Agreement pertaining to rights in data either implies a license to the Federal

Government under any patent, or may be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent.

- (h) *Data Developed Without Federal Assistance or Support.* The Recipient agrees that in certain circumstances it may need to provide to FTA data developed without any federal assistance or support. Nevertheless, this section generally does not apply to data developed without federal assistance, even though that data may have been used in connection with the Award. The Recipient agrees that the Federal Government will not be able to protect data developed without federal assistance from unauthorized disclosure unless that data is clearly marked “Proprietary,” or “Confidential.”
- (i) *Requirements to Release Data.* The Recipient understands and agrees that the Federal Government may be required to release data and information that the Recipient submits to the Federal Government as required under:
 - (1) The Freedom of Information Act (FOIA), 5 U.S.C. § 552;
 - (2) The U.S. DOT Common Rules;
 - (3) The U.S. DOT Public Access Plan, which provides that the Recipient agrees to satisfy the reporting and compliance requirements as set forth in the U.S. DOT Public Access plan, including, but not limited to, the submission and approval of a Data Management Plan, the use of Open Researcher and Contributor ID (ORCID) numbers, the creation and maintenance of a Research Project record in the Transportation Research Board’s (TRB) Research in Progress (RiP) database, and the timely and complete submission of all required publications and associated digital data sets as such terms are defined in the DOT Public Access plan. Additional information about how to comply with the requirements can be found at <http://ntl.bts.gov/publicaccess/howtocomply.html>; or
 - (4) Other federal laws, regulations, requirements, and guidance concerning access to records pertaining to the Award, the accompanying Underlying Agreement, and any Amendments thereto.

Section 19. Use of Real Property, Equipment, and Supplies.

- (a) *Federal Interest.* The Recipient agrees that the Federal Government retains a federal interest in all real property, equipment, and supplies acquired or improved for use in connection with a Project (Project property) until, and to the extent that, the Federal Government removes its federal interest.

- (b) *FTA Requirements and Guidance for Use of Project Property.* The Recipient agrees that:
- (1) *Satisfactory Continuing Control.* It will maintain continuing control of the use of its Project property as satisfactory to FTA, which is defined as the legal assurance that Project property will remain available to be used for its originally authorized purpose throughout its useful life or until disposition.
 - (2) *Appropriate Use.* It will use its Project property for appropriate purposes (including joint development purposes as well as uses that provide program income to support public transportation) for the duration of the useful life of its Project property, which may extend beyond the duration of the Award, and consistent with other requirements FTA may impose.
 - (3) *Delay or Failure to Use Project Property.* The Federal Government may require it to return the entire amount of federal assistance spent on its Project property if, during the useful life of its Project property, it has unreasonably delayed using its Project property, or failed to use its Project property.
 - (4) *Notification.* It will notify FTA immediately when it uses any of its Project property in a manner substantially different from the representations in its Application or other documents submitted in support of the Award, or the requirements of the accompanying Underlying Agreement, or it withdraws any of its Project property from appropriate use.
 - (5) *FTA Guidance.* It will consult FTA guidance through its circulars or other written documents for ways in which FTA property requirements should be implemented. FTA guidance will apply unless FTA determines otherwise in writing.
- (c) *General Federal Requirements.* The Recipient agrees to comply with the applicable U.S. DOT property management provisions as provided in the U.S. DOT Common Rules and this Master Agreement. The Recipient also agrees to follow FTA's reimbursement provisions pertaining to premature dispositions of certain equipment, as provided in this Master Agreement and FTA guidance.
- (d) *Maintenance.* As provided in federal laws, regulations, requirements, and guidance, the Recipient agrees to maintain its Project property in good operating order, and comply with FTA regulations, "Transit Asset Management" and "National Transit Database," 49 CFR Parts 625 and 630.
- (e) *Property Records.* The Recipient agrees to keep satisfactory records of its use of its Project property, and, upon request, it will provide FTA the necessary information required to assure compliance with this Master Agreement.

- (f) *Incidental Use.*
- (1) The Recipient agrees that any incidental use of Project property will not exceed what is permitted under applicable federal requirements and federal guidance.
 - (2) As provided in 49 U.S.C. § 5323(p), it may permit nontransit public entities and private entities to have incidental use of its federally assisted alternative fueling facilities and equipment, only if:
 - (i) The incidental use does not interfere with public transportation operations or violate the provisions of the Underlying Agreement and any Amendments thereto;
 - (ii) It fully recaptures all the costs related to the incidental use from any nontransit public entity or private entity that uses the alternative fueling facilities or equipment;
 - (iii) It uses revenues it receives from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and
 - (iv) Private entities pay all applicable excise taxes on fuel.
- (g) *Reasonable Access for Private Intercity or Charter Transportation Operators.* The Recipient agrees to comply with 49 U.S.C. § 5323(r), and may not deny reasonable access for a private intercity or charter transportation operator to federally funded public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes. In determining reasonable access, capacity requirements of the Recipient and the extent to which access would be detrimental to existing public transportation services must be considered.
- (h) *Encumbrance of Project Property.* Absent the express consent of the Federal Government in writing, the Recipient agrees to preserve the federal interest in its Project property, and to maintain satisfactory continuing control of its Project property as follows:
- (1) *Written Transactions.* The Recipient agrees that it will not execute any documents that would either adversely affect the federal interest in or impair its continuing control of the use of its Project property including, but not limited to, lease, transfer of title, lien, pledge, mortgage, encumbrance, third party contract, subagreement, grant anticipation note, alienation, innovative finance arrangements, such as a cross-border or leveraged lease, or other types of innovative financing arrangements, or any restriction, constraint, or

commitment that may apply to the Project property. Upon request, the Recipient will provide a copy of any document described above to FTA.

- (2) *Oral Transactions.* The Recipient agrees it will not obligate itself in any way through an oral statement to any third party with respect to its Project property that would either adversely affect the federal interest in or impair its continuing control of the use of its Project property.
 - (3) *Other Actions.* The Recipient agrees that it will not take any other action that would either adversely affect the federal interest in or impair its continuing control of the use of its Project property.
- (i) *Useful Life of Project Property.* The Recipient agrees that:
- (1) *Determining the Useful Life.* FTA may establish the useful life of Project property;
 - (2) *Required Use.* It will use its Project property continuously and appropriately throughout the useful life of that property;
 - (3) *Expired Useful Life.* When the useful life of its Project property has expired, it will comply with FTA's disposition requirements; and
 - (4) *Premature Withdrawal.* The Federal Government retains a federal interest in the fair market value of Project property or remaining useful life in Project property calculated based on straight line depreciation (including Project equipment acquired by a state). Therefore, if the Recipient withdraws that property from public transportation use prematurely, it will notify FTA immediately when any of its Project property is prematurely withdrawn from appropriate use, whether by planned withdrawal, misuse, or casualty loss.
 - (i) *Amount of Federal Interest.* The federal interest in the Recipient's or any of its Subrecipients' Project property will be determined based on the ratio of the federal assistance provided for that property to the actual cost of that property.
 - (ii) *Financial Commitments to the Federal Government.* Except as otherwise approved in writing by the Federal Government, the Recipient agrees that if its Project property is prematurely withdrawn from appropriate use:
 - (A) It will return an amount equal to the remaining federal interest in the withdrawn property to the Federal Government; or

- (B) With FTA approval, it will invest an amount equal to the remaining federal interest in the withdrawn property in other transit property eligible for federal assistance provided through the Underlying Agreement.
- (j) *Calculating the Value of Prematurely Withdrawn Project Property.* The Recipient agrees that the fair market value of Project property prematurely withdrawn from use in support of the Award (including the fair market value of project equipment acquired or improved by a state) will be calculated as follows:
 - (1) *Equipment and Supplies.* The fair market value of project equipment or supplies will be calculated by straight-line depreciation, based on the useful life of that equipment or supplies as established or approved by FTA. The fair market value of the Project equipment and supplies withdrawn from proper use will be based on the value of that property immediately before it was withdrawn from appropriate use irrespective of whether the Project property was withdrawn from use due to fire, casualty, or natural disaster, and irrespective of the extent of insurance coverage.
 - (2) *Real Property.* The Recipient agrees that the fair market value of Project real property shall be determined by:
 - (i) Competent appraisal based on an appropriate date as approved by FTA, consistent with U.S. DOT regulations, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs,” 49 CFR Part 24;
 - (ii) Straight line depreciation of improvements to the Project real property coupled with the value of the land determined by FTA based on appraisal; or
 - (iii) Other applicable federal laws, regulations, and requirements.
 - (3) *Exceptional Circumstances.* The Recipient agrees that the Federal Government may require another method of valuation to be used to determine the fair market value of Project real property withdrawn from service. In unusual circumstances, the Recipient may request permission to use another reasonable valuation method including, but not limited to accelerated depreciation, comparable sales, or established market values.
- (k) *Insurance Proceeds.* The Recipient agrees to use any insurance proceeds it receives for Project property that has been damaged or destroyed (including insurance proceeds for Project equipment acquired or improved by a state) as follows:

- (1) *Replacement.* It may apply those insurance proceeds to the cost of replacing that damaged or destroyed property;
 - (2) *Another Purpose.* It may use those insurance proceeds for another authorized purpose, provided that it has obtained FTA’s consent in writing; or
 - (3) *Return to the Federal Government.* It may return to the Federal Government an amount equal to the amount of the remaining federal interest in that property that has been damaged or destroyed.
- (l) *Misused or Damaged Project Property.* If any damage to Project property results from abuse or misuse occurring with the Recipient’s knowledge and consent, the Recipient agrees to restore the Project property that has been damaged to its original condition, or refund the value of the federal interest in its Project property (including the remaining federal interest in Project equipment acquired by a state), as the Federal Government may require.
 - (m) *Disposition of Project Property.* The Recipient agrees that disposition of its Project property may be made as provided in FTA’s enabling legislation, 49 U.S.C. § 5334(h), U.S. DOT Common Rules, and the most recent edition of FTA Circular 5010.1, to the extent consistent with applicable federal laws, regulations, requirements, and guidance. The Recipient understands and agrees that under certain circumstances, the Recipient must obtain disposition instructions from FTA before disposing of Project property, including real property, equipment including rolling stock, and supplies. Disposition performed under any authority is subject to 49 U.S.C. § 5334(h)(4)(B) (“Reimbursement”).
 - (n) *Responsibilities After Closeout.* The Recipient agrees that closeout of the Award will not change the Recipient’s property management responsibilities for its Project property as provided in federal laws, regulations, requirements, and guidance effective now or at a later date, and this section of this Master Agreement.

Section 20. Transit Asset Management.

- (a) *Transit Asset Management Plan.* The Recipient agrees to develop a Transit Asset Management Plan that complies with federal transit laws, specifically 49 U.S.C. § 5326, FTA regulations, “Transit Asset Management,” 49 CFR Part 625, and “National Transit Database,” 49 CFR Part 630, and other applicable federal laws, regulations, and requirements.
- (b) *When Compliance is Required.* The Recipient agrees to, and assures that each Third Party Participant will, comply with FTA regulations, “Transit Asset Management; National Transit Database,” 49 CFR Parts 625 and 630, and follow applicable federal guidance.

Section 21. Insurance.

- (a) *Flood Insurance.* The Recipient agrees and assures that its Third Party Participants will agree to comply with flood insurance laws and guidance as follows:
- (1) It will have flood insurance as required by the Flood Disaster Protection Act of 1973, 42 U.S.C. § 4012a(a), for any building located in a special flood hazard area (100-year flood zone), before accessing federal assistance to acquire, construct, reconstruct, repair, or improve that building.
 - (2) Each such building and its contents will be covered by flood insurance in an amount at least equal to the federal investment (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, 42 U.S.C. § 4001, et seq., whichever is less.
 - (3) It will follow FTA guidance, except to the extent FTA determines otherwise in writing.
- (b) *Other Insurance Requirements.* It will comply with the insurance requirements normally imposed by its state and local laws, regulations, and ordinances.

Section 22. Relocation and Real Property.

- (a) *Relocation Protections.* Irrespective of whether federal assistance is used to pay relocation costs required under federal laws, regulations, or requirements, the Recipient agrees to:
- (1) Provide fair and equitable treatment to displaced individuals and businesses that must be relocated as a result of any Project for which the FTA has provided federal assistance; and
 - (2) Comply with federal transit laws, specifically 49 U.S.C. § 5323(b), which requires compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. § 4601, et seq., and U.S. DOT regulations, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,” 49 CFR Part 24.
- (b) *Nondiscrimination in Housing.* The Recipient agrees that when it must provide housing for individuals as a result of relocation, it will comply with Title VIII of the Civil Rights Act of 1968, as amended (Fair Housing Act), 42 U.S.C. § 3601, et seq., and facilitate and follow Executive Order No. 12892, “Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing,”

January 17, 1994, 42 U.S.C. § 3608 note, (59 Fed. Reg. 2939), except as the Federal Government determines otherwise in writing.

- (c) *Prohibition Against the Use of Lead-Based Paint.* The Recipient agrees that if it constructs or rehabilitates residential structures on behalf of individuals displaced by its any Project, it will not use lead-based paint, and it will comply with Section 401(b) of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. § 4831(b), and U.S. Housing and Urban Development regulations, “Lead-based Paint Poisoning Prevention in Certain Residential Structures,” 24 CFR Part 35.
- (d) *Real Property Acquisition Protections.* Irrespective of whether federal assistance is used to pay real property acquisition costs required to implement the Award, the Recipient agrees to provide fair and equitable treatment to owners of real property or interests in real property that must be acquired as a result of any Project, and comply with federal transit laws, specifically 49 U.S.C. § 5323(b), which requires compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. § 4601, et seq., and U.S. DOT regulations, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs,” 49 CFR Part 24.
- (e) *Covenant Against Discrimination.* The Recipient agrees to include a covenant in the title of the real property acquired for use in any Project that assures nondiscrimination during the useful life of that real property.
- (f) *Recording the Title to Real Property.* The Recipient agrees to record the federal interest in the title to real property used in connection with any Project if FTA so requires.
- (g) *FTA Approval of Changes in Real Property Ownership.* Unless it receives permission or instructions from FTA, the Recipient agrees that it will not dispose of, modify the use of, or change the title to real property used in any Project, or any other interests in the site and facilities used in any Project.

Section 23. Construction.

- (a) *Construction Plans and Specifications.* The Recipient agrees to comply with all applicable statutes, regulations, and requirements, and follow FTA guidance in the development and implementation of construction plans and specifications, including drafting, review, and approval, for the Award.
- (b) *Seismic Safety.* The Recipient agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. § 7701, et seq., and U.S. DOT regulations, “Seismic Safety,” 49 CFR Part 41, specifically, 49 C.F.R. § 41.117.

- (c) *Supervision of Construction.* The Recipient agrees to maintain competent and adequate engineering supervision at the construction site of any Project to ensure that the completed work conforms to the approved plans and specifications.
- (d) *Construction Reports.* For any Project or related activities involving construction, the Recipient agrees to provide progress reports and other relevant information or data, as required by FTA or the state in which construction takes place.
- (e) *Major Capital Investment Projects.* If the Recipient’s Project involves a Major Federal Project, it agrees to comply with all applicable federal regulations, including FTA regulations, “Major Capital Investment Projects,” 49 CFR Part 611, and “Project Management Oversight,” 49 CFR Part 633, to the extent that they are consistent with applicable federal legislation, regulations, and requirements, and follow all applicable federal guidance.

Section 24. Employee Protections.

- (a) *Awards Involving Construction.* The Recipient agrees to comply and assures that each Third Party Participant will comply with all federal laws, regulations, and requirements providing protections for construction employees involved in each Project or related activities with federal assistance provided through the Underlying Agreement, including the:
 - (1) Prevailing Wage Requirements of:
 - (i) Federal transit laws, specifically 49 U.S.C. § 5333(a), (FTA’s “Davis-Bacon Related Act”);
 - (ii) The Davis-Bacon Act, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147; and
 - (iii) U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 CFR Part 5.
 - (2) Wage and Hour Requirements of:
 - (i) Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701, et seq.; and
 - (ii) U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction

(also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 CFR Part 5.

- (3) “Anti-Kickback” Prohibitions of:
 - (i) Section 1 of the Copeland “Anti-Kickback” Act, as amended, 18 U.S.C. § 874;
 - (ii) Section 2 of the Copeland “Anti-Kickback” Act, as amended, 40 U.S.C. § 3145; and
 - (iii) 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.
- (4) Construction Site Safety of:
 - (i) Section 107 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3704, and other relevant parts of that Act, 40 U.S.C. § 3701, et seq.; and
 - (ii) U.S. DOL regulations, “Recording and Reporting Occupational Injuries and Illnesses,” 29 CFR Part 1904; “Occupational Safety and Health Standards,” 29 CFR Part 1910; and “Safety and Health Regulations for Construction,” 29 CFR Part 1926.
- (b) *Awards Not Involving Construction.* The Recipient agrees to comply and assures that each Third Party Participant will comply with all federal laws, regulations, and requirements providing wage and hour protections for nonconstruction employees, including Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701, et seq., and U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 CFR Part 5.
- (c) *Awards Involving Commerce.* The Recipient agrees to comply and assures that each Third Party Participant will comply with the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, et seq. to the extent that the FLSA applies to employees performing work with federal assistance provided through the Underlying Agreement involving commerce, and as the Federal Government otherwise determines applicable.

- (d) *Public Transportation Employee Protective Arrangements.* As a condition of award of federal assistance appropriated or made available for FTA programs involving public transportation operations, the Recipient agrees to comply and assures that each Third Party Participant will comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):
- (1) *U.S. DOL Certification.* When its Award, the accompanying Underlying Agreement, or any Amendments thereto involve public transportation operations and are supported with federal assistance appropriated or made available for 49 U.S.C. §§ 5307 – 5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, 5338(b), or 5339, or former 49 U.S.C. §§ 5308, 5309, 5312, or other provisions of law as required by the Federal Government, U.S. DOL must provide a certification of employee protective arrangements before FTA may provide federal assistance for that Award. The Recipient agrees that the certification issued by U.S. DOL is a condition of the Underlying Agreement and that the Recipient must comply with its terms and conditions.
 - (2) *Special Warranty.* When its Underlying Agreement involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The Recipient agrees that its U.S. DOL Special Warranty is a condition of the Underlying Agreement and the Recipient must comply with its terms and conditions.
 - (3) *Special Arrangements for Underlying Agreements for Federal Assistance Authorized under 49 U.S.C. § 5310.* The Recipient agrees, and assures that any Third Party Participant providing public transportation operations will agree, that although pursuant to 49 U.S.C. § 5310, and former 49 U.S.C. §§ 5310 or 5317, FTA has determined that it was not “necessary or appropriate” to apply the conditions of 49 U.S.C. § 5333(b) to any Subrecipient participating in the program to provide public transportation for seniors (elderly individuals) and individuals with disabilities, FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate.

Section 25. Early Systems Work Agreement.

- (a) *Statutory Requirements.* If FTA enters into an Early System Work Agreement (ESWA) with the Recipient to advance the implementation of the Recipient’s Capital

Project, the Recipient agrees that the provisions of 49 U.S.C. § 5309(k)(3) will apply to that ESWA, the Recipient, and FTA.

- (b) *ESWA Provisions.* Except to the extent that the Federal Government determines otherwise in writing, the Recipient understands and agrees that the following provisions apply to its ESWA, unless the ESWA contains specific requirements to the contrary:
- (1) *Recipient Representations.* In view of the standards and commitments imposed on the Recipient by 49 U.S.C. § 5309(k)(3), the Recipient has provided sufficient representations and information to FTA so that FTA has reason to believe the following:
 - (i) FTA and the Recipient will enter into a Full Funding Grant Agreement for the Project; and
 - (ii) The terms of the ESWA will promote the ultimate completion of the Project more rapidly and at less cost.
 - (2) *FTA Commitments.* By entering into an ESWA with the Recipient, FTA has agreed to provide for reimbursement of the preliminary costs of carrying out the Project, including:
 - (i) Land acquisition;
 - (ii) Timely procurement of system elements for which the specifications are decided; and
 - (iii) Other activities that FTA decides are appropriate to make efficient, long-term Project management easier.
 - (3) *Time Period of the ESWA.* FTA reserves the right to determine the period of time in which the ESWA will remain in effect, even if that period extends beyond the time of the authorization of federal funding that will support the Project costs covered by the ESWA.
 - (4) *Interest and Other Financing Costs.* Interest and other financing costs of carrying out the ESWA efficiently and within a reasonable time are eligible ESWA costs, provided that:
 - (i) The interest and financing costs claimed do not exceed the cost of the most favorable financing terms reasonably available for the Project at the time of borrowing;

- (ii) The Recipient has certified that it will show reasonable diligence in seeking the most favorable financing terms; and
 - (iii) The Recipient is able to show reasonable diligence in seeking the most favorable financing terms to support this ESWA.
- (5) *Contingent Commitment.* In providing funding for the ESWA:
- (i) In its discretion, FTA may include a commitment, contingent on amounts made available under a later-enacted law, to obligate an additional amount from future available budget authority to support the costs of the Recipient's ESWA; and
 - (ii) If FTA does make a commitment to provide funding contingent on future amounts to be specified in law, that commitment is not an obligation of the Federal Government.
- (6) *Failure to Carry Out the Project.* If, for reasons within its control, the Recipient does not carry out the Project for which its ESWA was made available by FTA, the Recipient must:
- (i) Repay all Federal Grant funds awarded under the ESWA from all Federal funding sources for all Project activities, facilities, and equipment; and
 - (ii) Pay reasonable interest and penalty charges:
 - (A) As established by FTA before or after FTA provided funding for the ESWA; or
 - (B) Allowable under law.

Section 26. Environmental Protections.

- (a) *General.* The Recipient agrees to, and assures that its Third Party Participants will, comply with all applicable environmental and resource use laws, regulations, and requirements, and follow applicable guidance, now in effect or that may become effective in the future, including state and local laws, ordinances, regulations, and requirements and follow applicable guidance.
- (b) *National Environmental Policy Act.* An Award of federal assistance requires the full compliance with applicable environmental laws, regulations, and requirements. Accordingly, the Recipient agrees to, and assures that its Third Party Participants will:

- (1) Comply and facilitate compliance with federal laws, regulations, and requirements, including, but not limited to:
 - (i) Federal transit laws, such as 49 U.S.C. § 5323(c)(2), and 23 U.S.C. § 139;
 - (ii) The National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. §§ 4321, et seq., as limited by 42 U.S.C. § 5159, and CEQ’s implementing regulations 40 CFR Part 1500 – 1508;
 - (iii) Joint FHWA and FTA regulations, “Environmental Impact and Related Procedures,” 23 CFR Part 771 and 49 CFR Part 622;
 - (iv) Executive Order No. 11514, as amended, “Protection and Enhancement of Environmental Quality,” March 5, 1970, 42 U.S.C. § 4321 note (35 Fed. Reg. 4247); and
 - (v) Other federal environmental protection laws, regulations, and requirements applicable to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto.

- (2) Follow the federal guidance identified herein to the extent that the guidance is consistent with applicable authorizing legislation:
 - (i) Joint FHWA and FTA final guidance, “Interim Guidance on MAP-21 Section 1319, Accelerated Decisionmaking in Environmental Reviews,” January 14, 2013;
 - (ii) Joint FHWA and FTA final guidance, “SAFETEA-LU Environmental Review Process (Public Law 109-59),” 71 Fed. Reg. 66576, November 15, 2006; and
 - (iii) Other federal environmental guidance applicable to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto.

- (c) *Environmental Justice*. The Recipient agrees to, and assures that its Third Party Participants will, promote environmental justice by following:
 - (1) Executive Order No. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” February 11, 1994, 42 U.S.C. § 4321 note, (59 Fed. Reg. 7629, 3 C.F.R. 1994 Comp., p. 859) as well as facilitating compliance with that Executive Order;

- (2) U.S. DOT Order 5610.2(a), “Department of Transportation Updated Environmental Justice Order,” 77 Fed. Reg. 27534, May 10, 2012; and
 - (3) The most recent edition of FTA Circular 4703.1, “Environmental Justice Policy Guidance for Federal Transit Administration Recipients,” August 15, 2012, to the extent consistent with applicable federal laws, regulations, requirements, and guidance.
- (d) *Other Environmental Federal Laws.* The Recipient agrees to comply or facilitate compliance, and assures that its Third Party Participants will comply or facilitate compliance, with all applicable federal laws, regulations, and requirements, and will follow applicable guidance, including, but not limited to, the Clean Air Act, Clean Water Act, Wild and Scenic Rivers Act of 1968, Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, Magnuson Stevens Fishery Conservation and Management Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, Executive Order No. 11990 relating to “Protection of Wetlands,” and Executive Order No. 11988, as amended, “Floodplain Management.”
- (e) *Corridor Preservation.* The Recipient agrees that:
- (1) It will not develop any right-of-way acquired under 49 U.S.C. § 5323(q) in anticipation of implementing its Award until all required environmental reviews for each Project or related activities have been completed; and
 - (2) It will follow FTA Final Guidance on the Application of 49 U.S.C § 5323(q) to Corridor Preservation for a Transit Project, October 27, 2014.
- (f) *Use of Certain Public Lands.* The Recipient agrees to comply, and assures that its Third Party Participants will comply, with U.S. DOT laws, specifically 49 U.S.C. § 303 (often referred to as “section 4(f)”), and joint FHWA and FTA regulations, “Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites,” 23 CFR Part 774, and referenced in 49 CFR Part 622.
- (g) *Historic Preservation.* The Recipient agrees to, and assures that its Third Party Participants will:
- (1) Comply with U.S. DOT laws, including 49 U.S.C. § 303 (often referred to as “section 4(f)”), which requires certain findings be made before an Award may be undertaken if it involves the use of any land from a historic site that is on or eligible for inclusion on the National Register of Historic Places.

- (2) Encourage compliance with the federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 54 U.S.C. § 306108.
 - (3) Comply with the Archeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501, et seq.
 - (4) Comply with U.S. Advisory Council on Historic Preservation regulations, “Protection of Historic Properties,” 36 CFR Part 800.
 - (5) Comply with federal requirements and follow federal guidance to avoid or mitigate adverse effects on historic properties.
- (h) *Indian Sacred Sites.* The Recipient agrees to, and assures that its Third Party Participants will, facilitate compliance with federal efforts to promote the preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, and facilitate compliance with the American Indian Religious Freedom Act, 42 U.S.C. § 1996, and Executive Order No. 13007, “Indian Sacred Sites,” May 24, 1996, 42 U.S.C. § 3161 note (61 Fed. Reg. 26771).
- (i) *Mitigation of Adverse Environmental Effects.*
- (1) The Recipient agrees to comply with all environmental mitigation measures that may be identified as conditions that the Federal Government might impose in its finding of no significant impact or record of decision or commitments in the environmental documents that apply to the Award, such as environmental assessments, environmental impact statements, categorical exclusions, memoranda of agreement, documents required under 49 U.S.C. § 303, and other environmental documents.
 - (2) The Recipient agrees that:
 - (i) Any mitigation measures agreed on will be incorporated by reference and made part of the Underlying Agreement and any Amendments thereto;
 - (ii) Any deferred mitigation measures will be incorporated by reference and made part of the Underlying Agreement and any Amendments thereto as soon as agreement with the Federal Government is reached; and
 - (iii) Any mitigation measures agreed on will not be modified or withdrawn without the written approval of the Federal Government.

- (j) *Energy Conservation.* The Recipient agrees to, and assures that its Subrecipients will, comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321, et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, “Requirements for Energy Assessments,” 49 CFR Part 622, subpart C.

Section 27. State Management and Monitoring Systems.

The Recipient agrees to comply with joint FHWA and FTA regulations, “Management and Monitoring Systems,” 23 CFR Part 500, and FTA regulations, “Transportation Infrastructure Management,” 49 CFR Part 614.

Section 28. Charter Service.

- (a) *Prohibitions.* The Recipient agrees that neither it nor any Third Party Participant involved in the Award will engage in charter service, except as permitted under federal transit laws, specifically 49 U.S.C. § 5323(d), (g), and (r), FTA regulations, “Charter Service,” 49 CFR Part 604, any other federal Charter Service regulations, federal requirements, or federal guidance.
- (b) *Exceptions.* Apart from exceptions to the Charter Service restrictions in FTA’s Charter Service regulations, FTA has established the following additional exceptions to those restrictions:
 - (1) FTA’s Charter Service restrictions do not apply to equipment or facilities supported with federal assistance appropriated or made available for 49 U.S.C. § 5307 to support a Job Access and Reverse Commute (JARC)-type Project or related activities that would have been eligible for assistance under repealed 49 U.S.C. § 5316 in effect in Fiscal Year 2012 or a previous fiscal year, provided that the Recipient uses that federal assistance for FTA program purposes only; and
 - (2) FTA’s Charter Service restrictions do not apply to equipment or facilities supported with the federal assistance appropriated or made available for 49 U.S.C. § 5310 to support a New Freedom-type Project or related activities that would have been eligible for federal assistance under repealed 49 U.S.C. § 5317 in effect in Fiscal Year 2012 or a previous fiscal year, provided the Recipient uses that federal assistance for FTA program purposes only.
- (c) *Violations.* If it or any Third Party Participant engages in a pattern of violations of FTA’s Charter Service regulations, FTA may require corrective measures and remedies, including withholding an amount of federal assistance as provided in FTA’s Charter Service regulations, 49 CFR Part 604, appendix D, or barring it or the

Third Party Participant from receiving federal assistance provided in 49 U.S.C. chapter 53, 23 U.S.C. § 133, or 23 U.S.C. § 142.

Section 29. School Bus Operations.

- (a) *Prohibitions.* The Recipient agrees that neither it nor any Third Party Participant that is participating in its Award will engage in school bus operations exclusively for the transportation of students or school personnel in competition with private school bus operators, except as permitted by federal transit laws, 49 U.S.C. § 5323(f) or (g), FTA regulations, “School Bus Operations,” 49 CFR Part 605, and any other applicable federal “School Bus Operations” laws, regulations, requirements, or applicable federal guidance.
- (b) *Violations.* If a Recipient or any Third Party Participant has operated school bus service in violation of FTA’s School Bus laws, regulations, or requirements, FTA may require the Recipient or Third Party Participant to take such remedial measures as FTA considers appropriate, or bar the Recipient or Third Party Participant from receiving federal transit assistance.

Section 30. Geographic Information and Related Spatial Data.

The Recipient agrees that each Project or related activity that implements the Award will conform to the Federal Geographic Data Committee’s National Spatial Data Infrastructure if the Project or related activity directly or indirectly involves spatial data, or geographic information systems, and it will follow U.S. OMB Circular A-16, “Coordination of Geographic Information and Related Spatial Data Activities,” August 19, 2002, and U.S. OMB Circular A-16 Supplemental Guidance, “Geospatial Line of Business,” November 10, 2010.

Section 31. Federal “\$1 Coin” Requirements.

The Recipient agrees to comply with section 104 of the Presidential \$1 Coin Act of 2005, 31 U.S.C. § 5112(p), its equipment and facilities will be fully capable of accepting and dispensing \$1 coins when coins or currency are required to use that equipment or those facilities, and it will display signs and notices of the \$1 coin capability of its equipment and facilities on its premises, including vending machines, where coins or currency are used.

Section 32. Public Transportation Safety.

The Recipient agrees to comply with applicable federal laws, regulations, and requirements and follow applicable guidance that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329.

Section 33. Motor Carrier Safety.

- (a) *Financial Responsibility.* The Recipient agrees to comply and assures that its Third Party Participants will comply with the economic and insurance registration requirements of the:
- (1) U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, “Minimum Levels of Financial Responsibility for Motor Carriers,” 49 CFR Part 387, if it is engaged in operations requiring compliance with 49 CFR Part 387, it is engaged in interstate commerce, and it is not within a defined commercial zone; and
 - (2) The provisions of 49 U.S.C. § 31138(e)(4), which supersede inconsistent provisions of 49 CFR Part 387, and reduce the amount of insurance the Recipient must obtain to the highest amount required by any state in which the public transportation provider operates, if it operates within a public transportation service area located in more than one state, and receives federal assistance under 49 U.S.C. §§ 5307, 5310, and 5311.
- (b) *U.S. FMCSA Requirements.* The Recipient agrees to comply and assures that its Third Party Participants will comply with:
- (1) The safety requirements of U.S. FMCSA regulations, “Federal Motor Carrier Safety Regulations,” 49 CFR Parts 390 – 397, to the extent applicable; and
 - (2) The driver’s license requirements of U.S. FMCSA regulations, “Commercial Driver’s License Standards, Requirements, and Penalties,” 49 CFR Part 383, and “State Compliance with Commercial Driver’s License,” 49 CFR Part 384, to the extent applicable, with the substance abuse requirements and guidance of U.S. FMCSA’s regulations, “Controlled Substances and Alcohol Use and Testing,” 49 CFR Part 382, and implementing federal guidance, to the extent applicable.

Section 34. Safe Operation of Motor Vehicles.

- (a) *Seat Belt Use.* The Recipient agrees to implement Executive Order No. 13043, “Increasing Seat Belt Use in the United States,” April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by:
- (1) Adopting and promoting 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; and

- (2) Including a “Seat Belt Use” provision in each third party agreement related to the Award.
- (b) *Distracted Driving, Including Text Messaging While Driving.* The Recipient agrees to comply with:
- (1) Executive Order No. 13513, “Federal Leadership on Reducing Text Messaging While Driving,” October 1, 2009, 23 U.S.C. § 402 note, (74 Fed. Reg. 51225);
 - (2) U.S. DOT Order 3902.10, “Text Messaging While Driving,” December 30, 2009; and
 - (3) The following U.S. DOT Special Provision pertaining to Distracted Driving:
 - (i) *Safety.* The Recipient 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 Recipient owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Award, or when performing any work for or on behalf of the Award;
 - (ii) *Recipient Size.* The Recipient agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving; and
 - (iii) *Extension of Provision.* The Recipient agrees to include the preceding Special Provision of section 34(b)(3)(i) – (ii) of this Master Agreement in its third party agreements, and encourage its Third Party Participants to comply with this Special Provision, and include this Special Provision in each third party subagreement at each tier supported with federal assistance.

Section 35. Substance Abuse.

- (a) *Drug-Free Workplace.* The Recipient agrees to:
- (1) Comply with the Drug-Free Workplace Act of 1988, as amended, 41 U.S.C. § 8103, et seq.;

- (2) Comply with U.S. DOT regulations, “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance),” 49 CFR Part 32; and
 - (3) Follow and facilitate compliance with U.S. OMB regulatory guidance, “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance),” 2 CFR Part 182, particularly where the U.S. OMB regulatory guidance supersedes comparable provisions of 49 CFR Part 32.
- (b) *Alcohol Misuse and Prohibited Drug Use.*
- (1) *Requirements.* The Recipient agrees to comply and assures that its Third Party Participants will comply with:
 - (i) Federal transit laws, specifically 49 U.S.C. § 5331;
 - (ii) FTA regulations, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations,” 49 CFR Part 655; and
 - (iii) Applicable provisions of U.S. DOT regulations, “Procedures for Transportation Workplace Drug and Alcohol Testing Programs,” 49 CFR Part 40.
 - (2) *Remedies for Non-Compliance.* The Recipient agrees that if FTA determines that the Recipient or a Third Party Participant receiving federal assistance under 49 U.S.C. chapter 53 is not in compliance with 49 CFR Part 655, the Federal Transit Administrator may bar that Recipient or Third Party Participant from receiving all or a portion of the federal transit assistance for public transportation it would otherwise receive.

Section 36. Protection of Sensitive Security and Other Sensitive Information.

The Recipient agrees to comply with the following requirements for the protection of sensitive security information:

- (a) The Homeland Security Act, as amended, specifically 49 U.S.C. § 40119(b), and U.S. DOT regulations, “Protection of Sensitive Security Information,” 49 CFR Part 15;
- (b) The Aviation and Transportation Security Act, as amended, 49 U.S.C. § 114(r), and U.S. Department of Homeland Security, Transportation Security Administration regulations, “Protection of Sensitive Security Information,” 49 CFR Part 1520;
- (c) U.S. DOT Common Rules, which require the Recipient to implement, and to require its Subrecipients, if any, to implement reasonable measures to safeguard protected

personally identifiable information as well as any information that the FTA or pass-through entity designates as sensitive; and

- (d) National Archives and Records Administration regulations, “Controlled Unclassified Information,” 32 CFR Part 2002.

Section 37. Special Notification Requirements for States.

- (a) *Types of Information.* To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:
 - (1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
 - (2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
 - (3) The amount of federal assistance FTA has provided for a State Program or Project.
- (b) *Documents.* The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

Section 38. Freedom of Information.

- (a) *Applicability.* The Recipient agrees that the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as amended, applies to most information submitted to FTA and U.S. DOT, whether electronically or in typewritten hard copy.
- (b) *Records.* The Recipient agrees that all records it submits to FTA will become federal agency records and may be subject to release in response to a FOIA request unless FTA in its sole discretion determines that a valid exemption under FOIA or another statute applies. Unless FTA explicitly states otherwise in writing, FTA does not make any assurance that it will keep private any records submitted to FTA.
- (c) *Confidentiality.* President Obama’s “Memorandum for the Heads of Executive Departments and Agencies on the Freedom of Information Act,” dated January 21, 2009, directs federal agencies to adopt a presumption that information should generally be disclosed when requested, and therefore the Recipient agrees that:
 - (1) Unless a federal law or regulation requires that a document or other information be withheld, FTA does not consent to withhold information,

irrespective of its format, merely because it is accompanied by a “routine” confidentiality statement that may appear on:

- (i) Information about the Award, the accompanying Underlying Agreement, and any Amendments thereto;
 - (ii) Information accompanying or supplementing the Award, the accompanying Underlying Agreement, and any Amendments thereto; or
 - (iii) Any other information FTA may obtain.
- (2) As provided in federal laws, regulations, requirements, and guidance, FTA will review the information and documents that are the subject of each FOIA request to determine the extent to which FTA must or should exercise its discretion to withhold that information or those documents.
- (3) Any genuinely confidential, privileged, or sensitive security information will be marked clearly and specifically as confidential or privileged, and justified as confidential or privileged under FOIA standards. The Recipient will mark all sensitive security information (SSI), as defined by 49 C.F.R. § 15.5, as set forth in 49 C.F.R. § 1520.13. The Recipient will not mark non-SSI material as SSI. Also refer to Section 36 of this Agreement, regarding the protection of SSI and other sensitive information.

Section 39. Disputes, Breaches, Defaults, and Litigation.

- (a) *FTA Interest.* FTA has a vested interest in the settlement of any violation of federal law, regulation, or requirement, or any disagreement involving the Award, the accompanying Underlying Agreement, and any Amendments thereto including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise.
- (b) *Notification to FTA; Flow Down Requirement.* 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) *Additional Notice to U.S. DOT Inspector General.* 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, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. 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. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision applies to all divisions of the Recipient, including divisions tasked with law enforcement or investigatory functions.
- (c) *Federal Interest in Recovery.* The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Underlying Agreement. Notwithstanding the preceding sentence, the Recipient may return all liquidated damages it receives to its Award Budget for its Underlying Agreement rather than return the federal share of those liquidated damages to the Federal Government, provided that the Recipient receives FTA's prior written concurrence.
- (d) *Enforcement.* The Recipient must pursue its legal rights and remedies available under any third party agreement or any federal, state, or local law or regulation.

Section 40. Amendments to the Underlying Agreement.

- (a) *When Required.* An Amendment to the Underlying Agreement is required under the following circumstances:
- (1) A change in the scope of work or an addition of federal assistance to an existing Award (regardless of whether the source of assistance is the same or different);
 - (2) A change to the scope of work that necessitates a change in the distribution of federal assistance across scope codes or activities; or
 - (3) The Award includes multiple sources of financial assistance and the action requires the addition of a new Scope to a Project.
- (b) *Process.* An amendment to the Underlying Agreement must be submitted and approved in TrAMS, and must meet the same application requirements as would apply to a request for a new Award.

Section 41. FTA's Transit Award Management System (TrAMS).

The Recipient agrees to submit its application for an Award, reports, documents, or other information required by federal law, regulations, or requirements, through FTA's Transit Award Management System (TrAMS). To submit its application, reports, documents, or information required to FTA, any signature submitted for use in TrAMS must comply with the requirements of the Electronic Signatures in Global and National Commerce Act (E-Sign Act), 15 U.S.C. §§ 7001, et seq.

Section 42. Information Obtained through Internet Links.

Although this Master Agreement may include electronic links to federal laws, regulations, requirements, and guidance, FTA does not guarantee the accuracy of the information that may be accessed through such links. Accordingly, the Recipient understands and agrees that any information obtained through any electronic link within this Master Agreement does not represent an official version of a federal law, regulation, or requirement, and might be inaccurate. Therefore, any information that is obtained through such links is neither incorporated by reference nor made part of this Master Agreement. The Federal Register and the Code of Federal Regulations are the official sources for regulatory information pertaining to the Federal Government.

Section 43. Severability.

The Recipient agrees that if any provision of the Underlying Agreement or any Amendment thereto is determined to be invalid, then the remaining provisions thereof that conform to federal laws, regulations, requirements, and guidance will continue in effect.

SPECIAL PROVISIONS FOR SPECIFIC PROGRAMS

Section 44. Special Provisions for All Public Transportation Innovation, Technical Assistance or Workforce Development Programs.

- (a) *Applicability.* The Recipient understands and agrees that this section of the Master Agreement applies to the following programs to which FTA provides federal assistance, including the following programs:
- (1) Programs authorized under 49 U.S.C. § 5312, irrespective of the fiscal year for which the appropriations that supported the Underlying Agreement were authorized;
 - (2) Programs authorized under former 49 U.S.C. § 5313, irrespective of the fiscal year for which the appropriations that supported the Underlying Agreement were authorized;
 - (3) Programs authorized under 49 U.S.C. § 5314, irrespective of the fiscal year for which the appropriations that supported the Underlying Agreement were authorized;
 - (4) Programs authorized by the repealed section 3045 of SAFETEA-LU;
 - (5) Programs authorized by the repealed section 3046 of SAFETEA-LU; and
 - (6) Other similar Programs for which FTA awards federal assistance under 49 U.S.C. §§ 5312 or 5314, as amended, or other similar research-type or technical assistance authorizing legislation.
- (b) *Provisions for Underlying Agreements for Public Transportation Innovation or Technical Assistance and Workforce Development Awards.* The Recipient agrees that the following provisions will apply to the Underlying Agreement for a Public Transportation Innovation or Technical Assistance and Workforce Development Project or related activities:
- (1) *Report.* The Recipient agrees that in addition to any other Report FTA may require, the Recipient will prepare and submit to FTA a Report of each Project and related activities that describes the subject (or subjects) investigated, the methods used, the results, and the conclusions reached, is satisfactory, sufficiently organized, well-written, and comprehensive.
 - (2) *Disclaimer.* The Report must contain the following disclaimer: “This document is disseminated under the sponsorship of the United States Department of Transportation, Federal Transit Administration, in the interest

of information exchange. The United States government assumes no liability for the contents or use thereof. The United States government does not endorse products or manufacturers. Trade or manufacturers' names appear herein solely because they are considered essential to the contents of the report.”

- (3) *Format.* The Report must comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794d, and U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 CFR Part 1194, and the specific publication elements and report style guide at http://www.fta.dot.gov/research/program_requirements. The Report must identify clearly and precisely any specific information or data that is confidential, privileged, or proprietary and is contained within any report or document.
- (4) *Publication.* Except for confidential, privileged, or proprietary information in the Report, FTA may publish the Report, and make it available for publication on the Internet or in any other venue.
- (5) *Identification of Federal Assistance.* The Recipient agrees that:
 - (i) It will display information on any product developed with federal assistance for 49 U.S.C. § 5312 for which the U.S. Department of Transportation, Federal Transit Administration provided federal assistance to support the development of the product that is tangible and is produced from, or is a result of, a Project, is a deliverable, and visible to the public, or is or will be made available to other research organizations, or public transportation providers, and consists of equipment, a prototype, hardware, construction, reports, data, software, internet pages, or any similar item.
 - (ii) The information required will be given using an appropriate sign, designation, or notice.
- (c) *Special Disposition Provision.* In addition to other disposition provisions, FTA may vest title in tangible personal property used in the conduct of basic or applied scientific research in a nonprofit institution of higher education or in a nonprofit organization whose primary purpose is conducting scientific research, provided the requirements of 31 U.S.C. § 6306 are met.
- (d) *Protection of Human Subjects.* The Recipient agrees to comply with the protections for human subjects involved in a Project or related activities supported with federal assistance through the Underlying Agreement, as required by the National Research

Act, as amended, 42 U.S.C. § 289, et seq., and U.S. DOT regulations, “Protection of Human Subjects,” 49 CFR Part 11.

- (e) *Protection of Animals.* The Recipient agrees to comply with the protections for animals involved in a Project or related activities, as required by the Animal Welfare Act, as amended, 7 U.S.C. § 2131, et seq., and U.S. Department of Agriculture regulations, “Animal Welfare,” 9 CFR Parts 1, 2, 3, and 4.
- (f) *Export Control.* The Recipient understands and agrees that before exporting any information that is subject to federal export requirements, it must first obtain the necessary federal license(s), and comply with the federal export control regulations of the U.S. Department of Commerce, Bureau of Industry and Security, “Export Administration Regulations,” specifically, 15 CFR Parts 730, et seq., U.S. Department of State, U.S. Department of the Treasury, and U.S. Department of Defense.

Section 45. Special Provisions for the State Safety Oversight Grant Program.

In administering any State Safety Oversight Grant Program Award under 49 U.S.C. § 5329(e)(6), the Recipient agrees to comply with 49 U.S.C. § 5329(e)(6).

Section 46. Special Provisions for the State Infrastructure Bank (SIB) Program.

- (a) *Federal Laws, Regulations, Requirements, and Guidance.* The State, as the Recipient, agrees to administer its Underlying Agreement to support its SIB consistent with federal laws, regulations, requirements, and guidance, including, but not limited to:
 - (1) Title 23, U.S.C. (Highways), specifically 23 U.S.C. § 610, to the extent required under the FAST Act, and other applicable federal legislation;
 - (2) Federal transit laws, specifically 49 U.S.C. § 5323(o), which requires compliance with 49 U.S.C. §§ 5307, 5309, and 5337 for Underlying Agreements to which MAP-21 and the FAST Act apply;
 - (3) Section 350 of the National Highway System Designation Act of 1995, as amended, (NHS Act), 23 U.S.C. § 101 note, to the extent this section has not been superseded by 23 U.S.C. § 610;
 - (4) Any federal law enacted or federal regulation or requirements promulgated at a later date applicable to the Underlying Agreement;
 - (5) All other applicable federal guidance that may be issued;

- (6) The terms and conditions of any U.S. DOL certification(s) of employee protective arrangements;
 - (7) The SIB Cooperative Agreement establishing the SIB in the state, signed by the Executive Director of the Build America Bureau, the Federal Transit Administrator, authorized state official(s) or their authorized designees, and if applicable, the administrator (or designee) for any other federal modal agency that the State wishes to include in its SIB; and
 - (8) The FTA Grant Agreement providing federal assistance for the Underlying Agreement in support of its SIB, except that any provision of this Master Agreement that would otherwise apply to a SIB Project does not apply to the Underlying Agreement if it conflicts with any other federal law or regulation applicable to a SIB, federal SIB Guidelines, the SIB Cooperative Agreement, or the Underlying Agreement, but the conflicting provision of this Master Agreement will prevail, however, if FTA expressly determines so in writing.
- (b) *Limitations on Accessing Federal Assistance in the Transit Account.* The Recipient understands that the total amount of federal assistance awarded under the Grant Agreement to be supported with SIB deposits may not be available for immediate withdrawal. The State and the Recipient agree to restrict the amount of federal assistance it withdraws from its SIB to an amount not exceeding the limits specified in its Grant Agreement in support of the SIB or the Award Budget for that Grant Agreement.

Section 47. Special Provisions for the TIFIA and RRIF Programs.

- (a) *Federal Laws, Regulations, Requirements, and Guidance.* The Recipient agrees to administer any Underlying Agreement for TIFIA or RRIF credit assistance as required by and in accordance with the terms of the Underlying Agreement.
- (b) *Default.* The Recipient agrees that FTA may declare the Recipient in violation of this Master Agreement if there has been an Event of Default according to an Underlying Agreement for TIFIA or RRIF assistance, and that Event of Default is not cured within 90 days.
- (c) *Order of Precedence.* Any provision of this Master Agreement that is applicable to the Recipient's Underlying Agreement for TIFIA or RRIF assistance but that conflicts with the laws, regulations, and requirements applicable to the Recipient's Underlying Agreement for TIFIA or RRIF assistance, will not apply to the Recipient's TIFIA or RRIF Loan, Loan Guarantee, Line of Credit, or Master Credit Agreement, unless FTA determines otherwise in writing.

Section 48. Special Provisions for the Joint FTA–FRA Program.

- (a) *General Legal Requirements.* When both FTA and the U.S. Federal Railroad Administration (FRA) make federal assistance available for the same Underlying Agreement, the Recipient understands and agrees to administer the Underlying Agreement to achieve maximum compliance with FTA’s statutory and regulatory requirements, FRA’s statutory and regulatory requirements, and other federal statutory requirements.
- (b) Disadvantaged Business Enterprises.
 - (1) The Recipient acknowledges and understands that the statutory and regulatory provisions relating to disadvantaged business enterprises (DBE) differ significantly between FTA and FRA, including Section 1101(b) of the FAST Act (23 U.S.C. § 101 note) and U.S. DOT regulations, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 CFR Part 26, both of which apply to FTA, but not to FRA.
 - (2) FRA is not authorized to use FTA’s DBE regulations, and consequently the Recipient agrees to comply with the statutory and regulatory DBE provisions that apply to federal assistance provided by FTA when using that federal assistance for purchases.
 - (3) The Recipient agrees to use the “contracting with small and minority firms, women’s business enterprise” provisions of the applicable U.S. DOT Common Rules.
- (c) *Buy America.* The Recipient agrees that statutory and regulatory Buy America provisions that apply to federal assistance authorized for FTA differ from those that apply to federal assistance authorized for FRA. Therefore, the Recipient agrees that:
 - (1) It must comply with FTA’s statutory and regulatory Buy America provisions to the extent that the purchases are for a Project or related activities that implement the Underlying Agreement;
 - (2) It must comply with FRA’s statutory and regulatory Buy America provisions, section 301(a) of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), Pub L. 110-432, October 16, 2008, and 49 U.S.C. § 24405(a), to the extent that the purchases are required to comply with FRA Buy America requirements; and

- (3) If it uses federal assistance authorized for FTA and for FRA to finance a purchase, the Recipient agrees to comply with both FTA's and FRA's requirements.
- (d) *Force Account – Procurement.* The Recipient agrees that FTA deems section 16(j) of this Master Agreement to be satisfied for work that is performed by the railroad's force account employees if a Project or related activities are being conducted on the property of a railroad, and under the railroad's collective bargaining agreements with its employees, certain work to be performed for the Recipient must be performed by force account employees.
- (e) *Procurement of Rolling Stock.* The Recipient agrees that if FRA requires the Recipient to acquire any rolling stock for the Underlying Agreement from the Next Generation Corridor Equipment Pool Committee that has been established under section 305 of PRIIA, FTA deems section 15 of this Master Agreement to be satisfied.
- (f) *Use of Real Property, Equipment, and Supplies.* The Recipient agrees that application of section 19 of this Master Agreement is reserved.
- (g) *Davis-Bacon.* The Recipient agrees that, as provided in 49 U.S.C. § 24312, wages paid to railroad employees at rates provided in a collective bargaining agreement negotiated under the Railway Labor Act, 45 U.S.C. § 151, et seq., are deemed to comply with the requirements of the Davis-Bacon Act, 40 U.S.C. § 3141, et seq., and satisfy section 24 of this Master Agreement.
- (h) *Employee Protective Arrangements.* The Recipient agrees to pass down to a railroad employee subject to the Railway Labor Act, 45 U.S.C. § 151, et seq., protective arrangements as provided in a special Attachment to FTA's Grant Agreement or Cooperative Agreement with the Recipient, and not pass down employee protective arrangements as provided in section 24 of this Master Agreement.
- (i) *Motor Carrier Safety.* The Recipient agrees that railroad signal employees and their employers must comply with the hours of service requirements of 49 U.S.C. § 21104, see 49 U.S.C. § 21104(e), and FRA's hours of service regulation, specifically 49 CFR Part 228, and that section 33 of this Master Agreement does not apply to railroad signal employees concerning hours of service.
- (j) *Railroad Safety.* The Recipient agrees that a railroad subject to FRA's safety jurisdiction must comply with the federal railroad safety laws.

APPENDIX A
TRIBAL TRANSIT PROGRAM—APPLICABLE PROVISIONS

FTA recognizes that several provisions of this Master Agreement generally applicable to other programs do not apply to the Tribal Transit Programs or the Indian Tribes that are the Direct Recipients of federal assistance under those Programs. The following sections of this Master Agreement are not applicable to the Tribal Transit Programs:

Section 14(a)(1) and 14(b) – Private Enterprise

Section 22(e) – Relocation and Real Property

Section 27 – State Management and Monitoring Systems

Section 30 – Geographic Information and Related Spatial Data

Section 37 – Special Notification Requirement for States

However, this list is not intended to be comprehensive and FTA may determine that other provisions are not applicable depending upon the Underlying Agreement for the Tribal Transit or a Tribe having entered into a compact and funding agreement with the U.S. Department of Transportation pursuant to the Tribal Transportation Self-Governance Program (23 U.S.C. 207; 49 CFR Part 29).

ATTACHMENT 2 – 2 CFR 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by [41 U.S.C. 1908](#), must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under [41 CFR Part 60](#), all contracts that meet the definition of “federally assisted construction contract” in [41 CFR Part 60-1.3](#) must include the equal opportunity clause provided under [41 CFR 60-1.4\(b\)](#), in accordance with [Executive Order 11246](#), “Equal Employment Opportunity” ([30 FR 12319](#), [12935](#), [3 CFR Part, 1964-1965](#) Comp., p. 339), as amended by [Executive Order 11375](#), “Amending [Executive Order 11246](#) Relating to Equal Employment Opportunity,” and implementing regulations at [41 CFR part 60](#), “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended ([40 U.S.C. 3141-3148](#)). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act ([40 U.S.C. 3141-3144](#), and [3146-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act ([40 U.S.C. 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from

the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act ([40 U.S.C. 3701-3708](#)). Where applicable, 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 ([29 CFR Part 5](#)). Under [40 U.S.C. 3702](#) of the Act, 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. 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.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under [37 CFR § 401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act ([42 U.S.C. 7401-7671q](#).) and the Federal Water Pollution Control Act ([33 U.S.C. 1251-1387](#)), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act ([42 U.S.C. 7401-7671q](#)) and the Federal Water Pollution Control Act as amended ([33 U.S.C. 1251-1387](#)). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see [2 CFR 180.220](#)) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or

otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than [Executive Order 12549](#).

(I) Byrd Anti-Lobbying Amendment ([31 U.S.C. 1352](#))—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. 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 must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

ATTACHMENT 3

SUBRECIPIENT AGREEMENT

BETWEEN

BROWARD METROPOLITAN PLANNING ORGANIZATION

And

CITY OF SUNRISE

For

JOSH LEE BOULEVARD IMPROVEMENTS

This is an Agreement made and entered into by and between: **BROWARD METROPOLITAN PLANNING ORGANIZATION**, created pursuant to Section 339.175, Florida Statutes, hereinafter referred to as "BMPO,"

AND

CITY OF SUNRISE, a political subdivision of the State of Florida, hereinafter referred to as "City",

WHEREAS, the BMPO is a Direct Recipient in the Miami Urbanized Area of federal assistance from the Federal Transit Administration ("FTA" or "Grantor"); and

WHEREAS, the BMPO is the Grantee of the Community Project Funding (CPF) S9397 of the Consolidated Appropriations Act, 2023, Transit Infrastructure Grant (hereinafter referred to as the "Grant") from the FTA for the Josh Lee Boulevard Improvements (the "Project"); and

WHEREAS, the total cost estimate for the Project is \$5,100,000; and

WHEREAS, the Grantor will provide the BMPO with \$2,500,000, and the City will provide (1) a \$625,000 or 20% of non-federal local funds ("Local Match") contribution, and (2) an estimated additional local fund contribution of no less than \$1,975,000 to fully fund the Project; and

WHEREAS, the Project Budget includes providing not to exceed \$250,000 of the Grant for BMPO's administration and oversight and \$2,250,000 ("Grant Funds") to reimburse the City for design and construction of improvements for the Project, which is located in the City; and

WHEREAS, the BMPO will use an FTA Grant Agreement as the mechanism to reimburse the City, as it completes specified milestones for this Project. FTA approval of the Grant Agreement is anticipated in Fiscal Year 2025, at which time the Grant Agreement will be an exhibit to this Agreement; and

WHEREAS, the BMPO is willing to utilize the Grant Funds to fund the Project which will be administered by the BMPO and implemented by City; and

WHEREAS, the BMPO is responsible for ensuring that the Grant Funds are properly utilized to implement the Project and that the City complies with FTA's grant requirements; and

WHEREAS, the City desires to promote transit-supportive amenities to elevate the role of transit within the Project area; and

WHEREAS, BMPO and City desire to enter into an Agreement whereby the duties and obligations of each party to the other are set forth therein.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the BMPO and City agree as follows:

ARTICLE 1
DEFINITIONS AND IDENTIFICATIONS

For purposes of this Agreement, reference to one gender shall include the other, use of the plural shall include the singular, and use of the singular shall include the plural. The following definitions apply unless the context in which the word or phrase is used requires a different definition:

- 1.1 **Agreement** - means this document, Articles 1 through 11, inclusive. Other terms and conditions are included in the exhibits and documents that are expressly incorporated by reference.
- 1.2 **BMPO Board** – The Broward Metropolitan Planning Organization Board.
- 1.3 **BMPO Contract Administrator** - The BMPO Executive Director, or his/her designee. The primary responsibilities of the BMPO Contract Administrator are to coordinate and communicate with City.
- 1.4 **City Contract Administrator** - The City Manager of the City, or his/her designee. The primary responsibilities of the City Contract Administrator are to coordinate and communicate with BMPO and to manage and supervise execution and completion of the Scope of Services and the terms and conditions of this Agreement as set forth herein. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely on the instructions or determinations made by the City Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.
- 1.5 **Project** - The Project consists of the services described in Article 2.

ARTICLE 2
PURPOSE AND SCOPE

- 2.1 The purpose of this Agreement is to set out the terms and conditions for the City to provide management of the design and construction of Project improvements.
- 2.2 The Project Area is located within the public right-of-way of Josh Lee Boulevard from Oakland Park Boulevard to Nob Hill Road in the City of Sunrise, Florida.

- 2.3 In Fiscal Year 2025, the BMPO will make available \$2,250,000 of CPF Grant funds from the FTA for the implementation of the Project improvements. The Project is for the benefit of the City that agrees upon acceptance of the completed Project, to operate and maintain for the useful life, all Project elements as a condition of the funding. Through this Agreement, the BMPO will reimburse the City for completing the design and leading the construction of the agreed Project improvements. The reimbursement will occur on a monthly basis as the City provides invoices and progress reports to document its progress.
- 2.4 Further, the City shall provide the required (non-Federal) Local Match of 20% of the total project cost, leverage various funding sources to the extent feasible, targeting alternate funding sources, including local funds, and for improvements that are not eligible for FTA funding.
- 2.5 The City will be responsible for administering and managing the Project in a manner satisfactory to the BMPO and consistent with the concepts for transit-supportive improvements and implementation improvements developed as part of the Project as described in the attached as Exhibit "A".

ARTICLE 3
GRANT PASS THROUGH REQUIREMENTS

- 3.1 Grant - City agrees to comply with all the terms and conditions set forth in the Grant Agreement and the FTA Master Grant Agreement. A copy of the Grant Agreement executed by BMPO will set out the allocation of Grant funds for the Project ("Grant Agreement") and upon execution will be attached hereto as Exhibit "B", and the FTA Master Grant Agreement ("Master Agreement"). City acknowledges that this Master Agreement may be amended by FTA from time to time and City agrees to abide by any and all such amendments. In consideration for BMPO's payment to City of the Grant funds, City shall perform the Project in compliance with each and every applicable term and condition set forth in the Grant Agreement and the Master Agreement.
- 3.2 Grant Obligations - City shall comply with the applicable Grant requirements applicable to Project, including, but not limited to compliance with requirements relating to the source of the local share, accounting, records retention, audit provisions, Disadvantaged Business Enterprise (DBE) requirements, competitive procurement, Florida's Prompt Payment Act, Davis Bacon Act requirements, and Buy America requirements. BMPO may enforce against City any right that FTA may enforce against BMPO pertaining to the provision of FTA funds to City from the BMPO under the Grant.
- 3.3 Federal Requirements - In addition to the obligations of the Grant, City must comply with any and all laws, statutes, rules, regulations, circulars, directives, and

requirements of the federal and state government that relate to or in any manner affect the performance of public transit services and/or the Project grant funds under this Agreement. These regulations, circulars, and directives include, without limitation, the following:

FTA Circular No. 4220.1F "Third Party Contracting Guidelines"; 49 CFR Part 19, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"; Office of Management and Budget (OMB) 2 CFR Chapter I, Chapter II, Part 200, et al., Uniform Administrative Requirements, Cost Principles, and Audit Requirement for Federal Award; PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARD, FTA Circular for Award Management Requirements, and any amendments or revisions to the foregoing.

FTA mandated terms shall be deemed to control in the event of a conflict with provisions contained in this Agreement. City shall not perform any act, fail to perform any act, or refuse to comply with any BMPO requests which would cause BMPO to be in violation of the FTA terms and conditions related to the Grant Agreement or the Master Agreement, as may be amended by the FTA from time to time.

- 3.4 Progress and Financial Reports - City shall prepare narrative Progress Reports and Financial Reports on forms approved by the BMPO describing the progress of the work and expenditures for the Project funded under the Grant on a monthly basis. The Progress Report must contain the following information: (1) description of the work completed during the prior period; (2) tasks expected to be completed during the next period; (3) explanations of any problems or delays encountered or anticipated; and (4) any other detail that may be reasonably requested by BMPO.

The Financial Reports must include, at a minimum, the information as described on the form attached as Exhibit "C".

Properly completed Progress and Financial Reports must be delivered to BMPO no later than 20 calendar days after the conclusion of each one (1) month period as set forth above. Progress and Financial Reports are deliverables under this Agreement and must be reviewed and accepted by the BMPO prior to the BMPO's approval and payment of City's invoices.

- 3.5 Grant Indemnity – City's failure to reasonably perform its obligations related to the receipt of the Project Grant Funds shall constitute a material breach of this Agreement. City, to the extent permitted by law, agrees to indemnify and hold the BMPO harmless from any liability, demand, claim, penalty or any other adverse action resulting from breach by the City of its obligations related to the receipt of

the Project Grant Funds, including, any demand for return of all or a portion of the Project Grant Funds (including interest and penalties). In the event there are changes made to the Grant Agreement after execution by BMPO and FTA, or the execution of this Agreement, the parties agree to amend this Agreement as necessary to comply with those changes. If for any reason the City fails or is unable to utilize or expend the subject Grant Funds consistent with this Agreement within three (3) years from the effective date of this Agreement, the BMPO may, within its reasonable discretion and without penalty, elect to cancel or terminate this Agreement.

ARTICLE 4
TERM

- 4.1 This Agreement shall be effective upon execution by both parties and shall continue in full force and effect until City performs all obligations and responsibilities, with respect to the funds set forth in Exhibit "B", imposed on BMPO by FTA for receipt of federal funds under the Grant for the Project or December 31, 2028, whichever occurs first.
- 4.2 The parties hereto may extend this Agreement by mutual consent in writing prior to the expiration of the Term. This provision in no way limits either party's right to terminate this Agreement at any time during the Term.

ARTICLE 5
CONSIDERATION AND PAYMENT

- 5.1 Pursuant to this Agreement, the BMPO has allocated \$2,250,000 to pay for those activities and tasks described in the Project funded under the Grant program. The total BMPO allocation for this Project is an amount not to exceed \$2,250,000, for actual costs incurred, including administrative costs payable to the City. In the event the Project costs exceed the Grant amount, the increase in the Project costs will be the sole responsibility of the City.
- 5.2 The BMPO shall have no obligation to independently fund the costs of the Project.
- 5.3 Reimbursement of the BMPO's and City's expenses for the Project funded under the Grant shall be subject to the cost principles set forth in Part 200 – Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Award, as well as the applicable provisions of the Grant. The BMPO agrees to reimburse City for its expenditures that are allowable under the Project Grant. The BMPO shall charge costs directly associated with the BMPO's oversight of the Project, not to exceed \$250,000.00, which is separate from the City's allocation of \$2,250,000.00.

5.4 The City shall be reimbursed for the costs associated upon the satisfactory completion of the following milestones, as reasonably determined by the BMPO in its sole discretion:

- a. Consultant Submittal of 60% plans.
- b. Consultant submittal for permitting.
- c. Project advertised for bids-plans approved for permit.
- d. Construction contract awarded.
- e. Construction progress payments- every month- payment to contractor.
- f. Final completion- Final payment including retainage paid to contractor, consultant final invoice.

Public outreach communication, and project and design management associated with completion of these milestones shall be documented, and an allowable cost reimbursement shall be made to the City under these milestones.

Completion of the construction phases will be deemed to have occurred when the City submits all receipts, approved permits, certificate of completion, if any, copies of all permits with all required sign-offs, and all other necessary documentation indicating the construction phase has been completed in a satisfactory manner. Final required sign-off shall include a professional engineer's signing and sealing that the Project is complete and operational, in substantial conformance with the plans and specifications.

At the completion of the Project, the CITY shall provide verified actual costs satisfactorily demonstrated to have been expended by the City for completion of the Project, to be reimbursed in an amount not to exceed \$2,250,000. Upon satisfactory review and approval of all required documentation from the City, the BMPO shall pay the balance of the total contract amount after the costs reimbursed for the preceding milestones. Public outreach, communication, project design, and construction management associated with completion of this milestone shall be documented and an allowable cost under this milestone.

5.5 Upon receipt of City's properly documented invoice BMPO shall pay City the applicable federal share of the invoice within 30 calendar days. City's invoice shall include evidence that City has paid its local share contribution, if applicable, payroll records and invoices from City's contractor(s) and proof of payment to contractor(s) to verify that City has incurred the costs set out in its invoice. The BMPO reserves the right to require City to submit additional reasonable documentation to verify that City has incurred the costs set out in its invoice and that the amount of the invoice does not exceed the applicable federal share of the allocation of Grant funds, less the BMPOs administrative costs under the Project grant.

- 5.6 If BMPO disputes any items on an invoice for a reasonable cause, BMPO may deduct that disputed item from the payment, but shall not delay payment for the undisputed portions. The amounts and reasons for such deductions shall be documented to City and the parties agree to timely meet to resolve any such disputes.
- 5.7 The BMPO's obligation to provide reimbursement to City shall be limited to the availability of funds to BMPO from FTA which are specifically earmarked for the Project. In the event that FTA shall deny any of BMPO's request for payments relating to the Project, or if FTA shall request the return of any funds relating to the Project that have been previously paid, City shall, within 60 calendar days of receiving notice from BMPO of FTA's denial or request for return of funds already paid, return to BMPO the funds that FTA has declined to reimburse or requested to be returned. City's requirement to return funds shall include the payment of any interest or penalties required by FTA.
- 5.8 Payment shall be made to City at:

City of Sunrise Finance Department
10770 W Oakland Park Boulevard
Sunrise, Florida 33351

ARTICLE 6 GOVERNMENTAL IMMUNITY

Nothing herein is intended to serve as a waiver of sovereign immunity by any party nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. The BMPO and the City are state agencies or political subdivisions as defined in Section 768.28, Florida Statutes, and shall be fully responsible for the acts and omissions of their agents or employees to the extent permitted by law.

ARTICLE 7 INSURANCE

City is an entity subject to Section 768.28, Florida Statutes, and City shall furnish the BMPO with written verification of liability protection in accordance with state law prior to final execution of this Agreement.

ARTICLE 8 TERMINATION

- 8.1 This Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within 30 calendar days after written notice from the aggrieved party identifying the breach.
- 8.2 This Agreement may be terminated for cause for reasons including, but not limited to, City's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work; or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement.
- 8.3 Should either party involuntarily fail to perform any of their respective obligations pursuant to this Agreement, this Agreement may be terminated.
- 8.4 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement.

ARTICLE 9
MAINTENANCE OF RECORDS/AUDITS

- 9.1 City shall maintain books, records, documents, and other evidence directly pertinent to work under this Agreement in accordance with generally accepted accounting principles and practices. City shall also maintain for a period of three (3) years from the latter of the date of Grant close-out or expiration of this Agreement the financial information and data used by City in the preparation or support of the proposed or actual costs submitted for reimbursement under this Agreement. City agrees to permit the BMPO, FTA, the U.S. DOT Secretary and the U.S. Comptroller General, or their duly authorized representatives, to inspect all work, materials, payrolls, and other data and records and to conduct performance and/or financial audits of City books, records and accounts pertaining to the Grant expenditures for this Project.
- 9.2 City shall be responsible for meeting the audit requirements of Part 200 – Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Award, and any further revision or supplement thereto. City agrees that the audit will be conducted in accordance with U.S. Government Accountability Office (U.S. GAO) "Government Auditing Standards." Upon the BMPO's request, City must submit a copy of its audit, completed in accordance with the above-described requirements, within 30 days after completion of the audit, but no later than one year after the end of the audit period.
- 9.3 City and any of its contractors or subcontractors shall preserve and make available, at reasonable times for examination and audit by the BMPO, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public

Records Act, Chapter 119, Florida Statutes, as may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by City to be applicable to City's and its subcontractors' records, City and its subcontractors shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by City or its subcontractors.

ARTICLE 10 NONDISCRIMINATION

- 10.1 In accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 52 U.S.C. Section 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 U.S. C. Section 12132, Federal transit law, 49 U.S.C. Section 5332, and implementing regulations; the City will not discriminate against any employee, applicant for employment, or contractor hired, or any passenger provided transit service because of race, color, religion, national origin, ancestry, sex, age, or disability.
- 10.2 Contract Assurance: Neither City nor any of its contractors or subcontractors may discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. City shall carry out all applicable requirements of 49 CFR Part 26 in the award and administration of this US Department of Transportation-assisted Agreement. Failure by City to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or any other remedy allowed by law.

ARTICLE 11 MISCELLANEOUS

11.1 THIRD PARTY OBLIGATIONS / BENEFICIARIES

11.1.1 City shall be liable to third parties with whom it enters into contracts to effectuate the purposes of the Grant for the Project. City shall pay directly such parties for all amounts due under said contracts consistent with the Florida's Prompt Payment Act.

11.1.2 Neither City nor the BMPO intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third

party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

11.2 NOTICES

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

For City:

Mark S. Lubelski, P.E., City Manager
City of Sunrise
10770 West Oakland Park Boulevard
Sunrise, Florida 33351

With a copy to:

Thomas P. Moss, City Attorney
City of Sunrise
10770 West Oakland Park Boulevard
Sunrise, Florida 33351

For BMPO:

Executive Director
Broward Metropolitan Planning Organization
100 West Cypress Creek Road, Suite 650
Fort Lauderdale, Florida 33309

With a copy to:

Alan L. Gabriel, Esq.
BMPO General Counsel
200 East Broward Blvd., Suite 1900
Fort Lauderdale, Florida 33301

11.3 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any right or interest created herein shall be assigned, transferred, or encumbered without the prior written consent of the other party. The references herein to the Federal Transit Administration or FTA shall include any successor agency or department of the United States Government.

11.4 COMPLIANCE WITH LAWS

Parties shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

11.5 SEVERANCE

In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or the BMPO elect to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within 7 calendar days after the finding by the court becomes final.

11.6 JOINT PREPARATION

Each party and its counsel have participated fully in the review and revision of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

11.7 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of Articles 1 through 11 of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 11 shall prevail and be given effect; provided, however, anything in this Agreement to contrary, the Master Agreement and all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement.

11.8 JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All parties agree and accept that

jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, the BMPO AND CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

11.9 AMENDMENTS

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the City of Sunrise City Commission and the BMPO Board or others delegated authority to or otherwise authorized to execute same on their behalf.

11.10 PRIOR AGREEMENTS

This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

11.11 INCORPORATION BY REFERENCE

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. Exhibits "A", "B", and "C" as referenced herein are incorporated into and made a part of this Agreement.

11.12 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he/she is, on the date he/she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

11.13. MULTIPLE ORIGINALS

Multiple copies of this Agreement may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

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IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement: **CITY OF SUNRISE** through its CITY COMMISSIONERS, signing by and through its Mayor, authorized to execute same by Commission action on the 28th day of January, 2025, and **BROWARD METROPOLITAN PLANNING ORGANIZATION**, signing by and through its Chair and Executive Director, duly authorized to execute same.

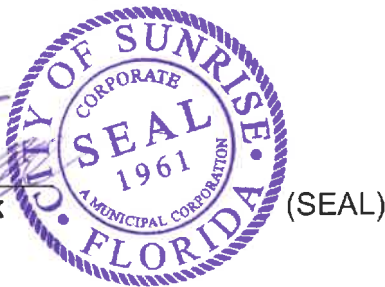
"CITY"

CITY OF SUNRISE, a municipal corporation of the State of Florida

By: 
Michael J. Ryan, Mayor

This 28 day of January, 2025.

Attest:
By: 
Felicia M. Bravo, City Clerk

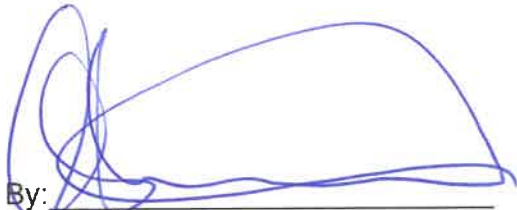


APPROVED AS TO FORM AND LEGAL SUFFICIENCY for the use and reliance of the City of Sunrise, Florida, only.

By: 
Thomas P. Moss, City Attorney

SUBRECIPIENT AGREEMENT BETWEEN BROWARD METROPOLITAN PLANNING ORGANIZATION AND THE CITY OF SUNRISE FOR THE JOSH LEE BOULEVARD IMPROVEMENTS PROJECT

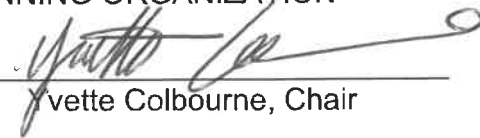
“BMPO”



By: Gregory Stuart, Executive Director

13th day of February, 2025

BROWARD METROPOLITAN PLANNING ORGANIZATION

By: 
Yvette Colbourne, Chair

13th day of February, 2025

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE OF AND RELIANCE BY THE BMPO ONLY:

By: 
Alan L. Gabriel, BMPO General Counsel
Weiss Serota Helfman Cole & Bierman PL

SUBRECIPIENT AGREEMENT BETWEEN BROWARD METROPOLITAN PLANNING ORGANIZATION AND THE CITY OF SUNRISE FOR THE JOSH LEE BOULEVARD IMPROVEMENTS PROJECT

EXHIBITS

Exhibit "A" -- Project Improvements

JOSH LEE BOULEVARD COMPLETE STREETS


PROJECT NUMBER:	003592					
LOCATION:	Josh Lee Boulevard					
STATUS:	New Project					
DEPARTMENT:	Public Works					
PROJECT MANAGER:	Chris Ulrich					
START DATE:	8/2024					
COMPLETION DATE:	10/2027					
ESTIMATED PROJECT COST:	\$ 5,100,000					
DESCRIPTION/JUSTIFICATION						
<p>This project proposes to provide connectivity in order to facilitate multi-modal transportation along Josh Lee Blvd (also known as NW 33rd Street) from W Oakland Park Boulevard to N Nob Hill Road as well as traffic calming for the adjacent residential communities. The proposed improvements include the removal of the two west bound lanes on the north side of the roadway along the entire project limits, modification of the two east bound lanes on the south side to accept both directions of travel, and conversion of the median area into on-street parking.</p> <p>Additional specific scope components consist of installation of a multibuse path on north side of the project limits, replacement of the substandard sidewalk along the south side of the project limits, safety improvements associated with existing cluster mailboxes, relocation of existing bus stops along with installation of new bus shelters, roadway resurfacing and restriping, including overbuild to reestablish roadway crown, installation of pedestrian/street lighting, implementation of ADA upgrades, driveway adjustments, landscaping improvements, and installation of other various items including benches and trash receptacles.</p>						
FUNDING SOURCES						
FUND/SOURCE	FY24	FY25	FY26	FY27	FY28	5-Year Total
Fund 191	2,600,000					\$ 2,600,000
Grant Funds	2,500,000					\$ 2,500,000
						\$ -
TOTAL	\$ 5,100,000	\$ -	\$ -	\$ -	\$ -	\$ 5,100,000
PROJECT COMPONENTS						
506100 - Land Purchase						\$ -
506502 - Const. Design	800,000					\$ 800,000
506505 - Const. Othr. Costs	180,000					\$ 180,000
506510 - Construction	4,120,000					\$ 4,120,000
TOTAL	\$ 5,100,000	\$ -	\$ -	\$ -	\$ -	\$ 5,100,000
ESTIMATED ANNUAL OPERATING IMPACT						
Personnel						\$ -
Operating						\$ -
Capital Outlay						\$ -
TOTAL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
HISTORICAL PROJECT-TO-DATE						
FUND	Project-to-Date (PTD) Budget	Project-to-Date (PTD) Actuals	Project-to-Date (PTD) Balance			
			-			
			-			
			-			
TOTAL	\$ -	\$ -	\$ -			

Exhibit "B" -- Grant Agreement and the FTA Master Grant Agreement

Exhibit "C" -- Financial Report Form

Application

Federal Award Identification Number (FAIN)	7106-2024-1
Temporary Application Number	7106-2024-1
Award Name	City of Sunrise Capital FY 2023-CMPJ-030
Application Status	In-Progress
Application Budget Number	0

Period of Performance Start Date	N/A		
Original Period of Performance End Date	3/30/2031		
Current Period of Performance End Date	3/30/2031	Revision #: 0	Approved?: No

Part 1: Recipient Information

Name: BROWARD METROPOLITAN PLANNING ORGANIZATION

Recipient ID	Recipient OST Type	Recipient Alias	UEI	DUNS
7106	Planning Commission	BROWARD METROPOLITAN PLANNING ORGANIZATION	L9D2JZDVN3Z3	831340828

Location Type	Address	City	State	Zip
Physical Address	100 W CYPRESS CREEK RD	FORT LAUDERDALE	FL	33309
Mailing Address	100 WEST CYPRESS CREEK ROAD	FORT LAUDERDALE	FL	33309

Union Information

There are no union contacts for this application

Part 2: Application Information

Title: City of Sunrise Capital FY 2023-CMPJ-030

FAIN	Application Status	Award Type	Application Cost Center	Date Created	Last Updated Date	From TEAM?
7106-2024-1	In-Progress	Grant	Region 4	2/7/2024	2/7/2024	No

Application Executive Summary

This application is to request Community Project Funding (CPF) FTA, Consolidated Appropriations Act of 2023 (Vol. 168, No. 198-Book III, S9397) in compliance with FTA Section 5307 program funds were appropriated to the Broward Metropolitan Planning Organization, the "Grantee" FTA Direct Recipient, on behalf of the City of Sunrise, Florida, in the amount of \$2,500,000.

The Project includes designing and constructing the Multimodal Transportation Improvements along Josh Lee Boulevard extending from West Oakland Park Boulevard to North Nob Hill Road. These improvements will include bus shelters, pedestrian-scale lighting for safety and security, functional landscape, and multi-purpose paths for enhanced pedestrian, bicycle, and public transit passenger amenities to enhance access and connections to jobs, social and civic facilities, library, parks, neighborhoods, Intermodal Public Transfer Station (IPTTS), and other local and regional destinations.

Broward MPO acknowledges that it will use consultants / 3rd-party contractors to perform stated work / tasks and will comply with the following:

- a. The Grantee or Sub-grantee (when applicable) will follow all 3rd party procurement policies as defined in C4220.1F (Third Party Contracting Guidance); and
- b. The Grantee or Sub-grantee (when applicable) will ensure that the contractors procured will not be on the FTA Suspension and Debarment list.

All improvements are consistent with FTA Circular 9030.1e and other FTA guidance.

The total application costs are as follows:

Federal: \$2,500,000

Non-Federal (Local Funds provided by City of Sunrise): \$2,200,000 (which is greater than the 20% local match requirement)

*Please note that the City of Sunrise shall provide local funds for additional project costs.

The following documents are attached to the application:

Scope change request approval.

Section 106 Grantee Checklist and FTA Approval Email.

NEPA Pre-Questionnaire Document.

Categorical Exclusion #C5 FTA Approval Email.

Broward MPO TIP page #15-3-2 (FDOT Project Number (FM#): 2025001 Josh Lee Blvd)

Florida STIP page # TBD (FDOT Project Number (FM#): 2025001 Josh Lee Blvd)

Frequency of Milestone Progress Reports (MPR)

No Selection Made

Frequency of Federal Financial Reports (FFR)

No Selection Made

Does this application include funds for research and/or development activities?

This award does not include research and development activities.

Pre-Award Authority

This award is using Pre-Award Authority.

Does this application include suballocation funds?

Recipient organization is directly allocated these funds and is eligible to apply for and receive these funds directly.

Will this Grant be using Lapsing Funds?

No Selection Made

Will indirect costs be applied to this application?

This award does not include an indirect cost rate.

Indirect Rate Details: N/A

Requires E.O. 12372 Review

No, this application does not require E.O. 12372 Review.

Delinquent Federal Debt

No, my organization does not have delinquent federal debt.

Award Description

Purpose

The purpose of this award is to provide capital improvements to facilitate multi-modal transportation along Josh Lee Boulevard (also known as NW 33rd Street) from West Oakland Park Boulevard to North Nob Hill Road for first and last-mile connectivity to existing and future public transportation.

Activities to be performed:

City of Sunrise Capital FY 2023-CMPJ-030 (Design): This activity (ALI) covers the design of the priority recommendations for the Josh Lee Boulevard Multimodal Transportation Improvements. These recommendations combine mobility, safety, ADA, and transit elements to improve the public transit riders safety, connectivity, and quality of service.

City of Sunrise Capital FY 2023-CMPJ-030 (Construction) This activity (ALI) covers the construction of the Multimodal Transportation Improvements along Josh Lee Boulevard extending from West Oakland Park Boulevard to North Nob Hill Road. These improvements will include bus shelters, pedestrian-scale lighting for safety and security, functional landscape, and multi-purpose paths for enhanced pedestrian, bicycle, and public transit passenger amenities to enhance access and connections to jobs, social and civic facilities, libraries, parks, neighborhoods, Intermodal Public Transfer Station (IPTS), and other local and regional destinations.

Expected outcomes:

Funding will permit the Broward MPO and the City of Sunrise (subrecipient) to provide bus shelters and first / last-mile improvements to ensure seamless connectivity, increasing the traveling public's comfort, safety, security, and efficiency.

Intended beneficiaries:

Broward County Transit and City of Sunrise Minibus riders, pedestrians, and bicyclists, including multimodal and ADA enhancements to promote safe, secure, and sustainable travel options, serving the mobility needs of people of all ages and abilities and encouraging active transportation.

Subrecipient Activities:

The City of Sunrise is the subrecipient of the grant funds and is responsible for the project delivery activities and operations and maintenance of all improvements throughout the useful life of the assets.

Application Point of Contact Information

First Name	Last Name	Title	E-mail Address	Phone
Andrew	Riddle	Project Coordinator	riddlea@browardmpo.org	(954) 876-0067

Application Budget Control Totals

Funding Source	Section of Statute	CFDA Number	Amount
Community Project Funding	22-CMPJ-1	20534	\$2,500,000
Local			\$2,200,000
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$4,700,000

Application Budget

Project Number	Budget Item	FTA Amount	Non-FTA Amount	Total Eligible Amount	Quantity
7106-2024-1-P1	117-00 OTHER CAPITAL ITEMS (BUS)	\$578,000.00	\$82,000.00	\$660,000.00	3
7106-2024-1-P1	11.71.04 CONSTRUCTION MANAGEMENT - 3RD PARTY	\$320,000.00	\$80,000.00	\$400,000.00	1
7106-2024-1-P1	11.72.11 FORCE ACCOUNT - OTHER	\$250,000.00	\$0.00	\$250,000.00	1
7106-2024-1-P1	11.75.95 RIGHT-OF-WAY UTILITY RELOCATION	\$8,000.00	\$2,000.00	\$10,000.00	1
7106-2024-1-P1	119-00 Bus Associated Transit Improvements	\$1,922,000.00	\$2,118,000.00	\$4,040,000.00	5
7106-2024-1-P1	11.91.05 ENG/DESIGN PED ACCESS / WALKWAYS	\$640,000.00	\$160,000.00	\$800,000.00	1
7106-2024-1-P1	11.93.02 CONSTRUCTION - BUS SHELTERS	\$196,000.00	\$49,000.00	\$245,000.00	3
7106-2024-1-P1	11.93.05 CONSTRUCT PED ACCESS / WALKWAYS	\$1,086,000.00	\$1,909,000.00	\$2,995,000.00	1

Discretionary Allocations

This application does not contain discretionary allocations.

Part 3: Project Information

Project Title: Josh Lee Boulevard
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Project Number	Temporary Project Number	Date Created	Start Date	End Date
7106-2024-1-P1	7106-2024-1-P1	1/2/2025	4/1/2025	3/30/2031

Project Description

This application is to request Community Project Funding (CPF) FTA, Consolidated Appropriations Act of 2023 (Vol. 168, No. 198-Book III, S9397) in compliance with FTA Section 5307 program funds were appropriated to the Broward Metropolitan Planning Organization, the "Grantee" FTA Direct Recipient, on behalf of the City of Sunrise, Florida, in the amount of \$2,500,000.

The project includes designing and constructing the multimodal transportation improvements along Josh Lee Boulevard, which extends from West Oakland Park Boulevard to North Nob Hill Road. These improvements will include bus shelters, pedestrian-scale lighting for safety and security, functional landscape, and multi-purpose paths for enhanced pedestrian, bicycle, and public transit passenger amenities to enhance access and connections to jobs, social and civic facilities, library, parks, neighborhoods, Intermodal Public Transfer Station (IPTS), and other local and regional destinations.

Project Benefits

The project will benefit Broward County Transit and City of Sunrise Minibus riders, pedestrians, and bicyclists by including multimodal and ADA enhancements to promote safe, secure, and sustainable travel options, serving the mobility needs of people of all ages and abilities and encouraging active transportation.

Additional Information

None provided.

Location Description

Josh Lee Boulevard, from West Oakland Park Boulevard to North Nob Hill Road, City of Sunrise, Florida.

Project Location (Urbanized Areas)

UZA Code	Area Name
120000	Florida
120180	Miami-Fort Lauderdale, FL

Congressional District Information

District	State
20	Florida

Program Plan Information

STIP/TIP

Date: 7/11/2024

UPWP

Date: 5/9/2024

Description: UPWP FY 2024/25-2025/26 Adopted May 9, 2024 - Page 59 of 122

Long Range Plan

Date: 2/8/2024

Description: Commitment 2045 Metropolitan Transportation Plan (MTP) was adopted on December 12, 2019 and amended on January 28, 2021 (Amendment 1), March 10, 2022 (Amendment 2), February 9, 2023 (Amendment 3), and February 8, 2024 (Amendment 4). Page 5-30

Project Control Totals

Funding Source	Section of Statute	CFDA Number	Amount
Community Project Funding	22-CMPJ-1	20534	\$2,500,000
Local			\$2,200,000
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$4,700,000

Project Budget

Project Number	Budget Item	FTA Amount	Non-FTA Amount	Total Eligible Amount	Quantity
7106-2024-1-P1	117-00 OTHER CAPITAL ITEMS (BUS)	\$578,000.00	\$82,000.00	\$660,000.00	3
7106-2024-1-P1	11.71.04 CONSTRUCTION MANAGEMENT - 3RD PARTY	\$320,000.00	\$80,000.00	\$400,000.00	1
7106-2024-1-P1	11.72.11 FORCE ACCOUNT - OTHER	\$250,000.00	\$0.00	\$250,000.00	1
7106-2024-1-P1	11.75.95 RIGHT-OF-WAY UTILITY RELOCATION	\$8,000.00	\$2,000.00	\$10,000.00	1
7106-2024-1-P1	119-00 Bus Associated Transit Improvements	\$1,922,000.00	\$2,118,000.00	\$4,040,000.00	5

(119-)						
7106-2024-1-P1	11.91.05	ENG/DESIGN PED ACCESS / WALKWAYS	\$640,000.00	\$160,000.00	\$800,000.00	1
7106-2024-1-P1	11.93.02	CONSTRUCTION - BUS SHELTERS	\$196,000.00	\$49,000.00	\$245,000.00	3
7106-2024-1-P1	11.93.05	CONSTRUCT PED ACCESS / WALKWAYS	\$1,086,000.00	\$1,909,000.00	\$2,995,000.00	1

Project Budget Activity Line Items

Budget Activity Line Item: 11.93.05 - CONSTRUCT PED ACCESS / WALKWAYS

Scope Name / Code	Line Item #	Line Item Name	Activity	Quantity
Bus Associated Transit Improvements (119-00)	11.93.05	CONSTRUCT PED ACCESS / WALKWAYS	CONSTRUCTION	1

Extended Budget Description

The cost associated with construction includes but is not limited to, hardscape items such as bicycle and pedestrian paths, pedestrian lighting, bike racks, transit benches, trash cans, functional landscape, ADA improvements, bicycle markings, signage, and other amenities, and maintenance of traffic, mobilization, and permitting.

The useful life for items over \$5,000:
 Pedestrian Path - Useful life 20 years,
 Pedestrian Lighting - Useful Life 15 years

Useful life for items under \$5,000 (Not Needed):
 Trash Cans - N/A Bicycle Racks - N/A Transit Bench - N/A.

Useful life shall comply with FTA Circular 5010.1D or manufacturer / industry standards.

Will 3rd Party contractors be used to fulfill this activity line item?

Yes, 3rd Party Contractors will be used for this line item.

Funding Source	Section of Statute	CFDA Number	Amount
Community Project Funding	22-CMPJ-1	20534	\$1,086,000
Local			\$1,909,000
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0

Total Eligible Cost	\$2,995,000
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Milestone Name	Est. Completion Date	Description
Start Date	10/31/2026	Begin construction of hardscape- Path, Sidewalk, ADA, Bike Markings, Signage, Lighting, and Functional Landscape.
Substantially Complete	2/29/2028	The substantial completion of work in accordance with design plans and is confirmed by as-built plans.
End Date	3/30/2031	Complete construction of hardscape- Path, Sidewalk, ADA, Bike Markings, Signage, Lighting, and Functional Landscape. (Including final inspection.)

Budget Activity Line Item: 11.93.02 - CONSTRUCTION - BUS SHELTERS

Scope Name / Code	Line Item #	Line Item Name	Activity	Quantity
Bus Associated Transit Improvements (119-00)	11.93.02	CONSTRUCTION - BUS SHELTERS	CONSTRUCTION	3

Extended Budget Description

CONSTRUCTION - Bus Shelters, Bus Bays, ADA Compliant Bus Pads - Useful life 15 Years

Useful life shall comply with FTA Circular 5010.1D or manufacturer or industry standards.

Will 3rd Party contractors be used to fulfill this activity line item?

Yes, 3rd Party Contractors will be used for this line item.

Funding Source	Section of Statute	CFDA Number	Amount
Community Project Funding	22-CMPJ-1	20534	\$196,000
Local			\$49,000
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$245,000

Milestone Name	Est. Completion Date	Description
Start Date	10/30/2026	Commencement of construction.
Substantial Completion of Work	6/30/2027	Substantial Completion of Work related to the bus shelters, bus bays, and pads.
End Date	3/30/2031	Closeout of construction. (Final inspection with As-Built Plans)

Budget Activity Line Item: 11.91.05 - ENG/DESIGN PED ACCESS / WALKWAYS

Scope Name / Code	Line Item #	Line Item Name	Activity	Quantity
Bus Associated Transit Improvements (119-00)	11.91.05	ENG/DESIGN PED ACCESS / WALKWAYS	ENGINEERING/DESIGN (TRANSIT ENHANCEMENTS)	1

Extended Budget Description

The cost associated with hiring a consultant to prepare design engineering drawings and to prepare construction bid documentation. This covers all project components, including, but not limited to, hardscape, functional landscaping, lighting, street furniture, outreach, public involvement, and surveying.

Will 3rd Party contractors be used to fulfill this activity line item?

Yes, 3rd Party Contractors will be used for this line item.

Funding Source	Section of Statute	CFDA Number	Amount
Community Project Funding	22-CMPJ-1	20534	\$640,000
Local			\$160,000
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$800,000

Milestone Name	Est. Completion Date	Description
Start Date	6/30/2025	Begin Eng / Design
Design 30%, 60%, and 90% Plan Reviews	7/31/2026	Design 30%, 60%, and 90% Plan Reviews.
End Date	9/30/2026	End Eng / Design

Budget Activity Line Item: 11.75.95 - RIGHT-OF-WAY UTILITY RELOCATION

Scope Name / Code	Line Item #	Line Item Name	Activity	Quantity
OTHER CAPITAL ITEMS (BUS) (117-00)	11.75.95	RIGHT-OF-WAY UTILITY RELOCATION	REAL ESTATE (RIGHT-OF-WAY)	1

Extended Budget Description

The cost associated with identifying the locations of existing utilities in the public right of way and any impacts or relocation needed for this project, if warranted. BMPO will coordinate with the Regions EPS.

Will 3rd Party contractors be used to fulfill this activity line item?

Yes, 3rd Party Contractors will be used for this line item.

Funding Source	Section of Statute	CFDA Number	Amount
Community Project Funding	22-CMPJ-1	20534	\$8,000
Local			\$2,000
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$10,000

Milestone Name	Est. Completion Date	Description
Start Date	6/30/2025	Begin utility research (design phase).
Identify Utility Relocation and Finalize Coordination	4/30/2026	Identify Utility Relocation and Finalize Coordination.
End Date	3/30/2031	Closeout Utility Relocation Activities.

Budget Activity Line Item: 11.72.11 - FORCE ACCOUNT - OTHER

Scope Name / Code	Line Item #	Line Item Name	Activity	Quantity
OTHER CAPITAL ITEMS (BUS) (117-00)	11.72.11	FORCE ACCOUNT - OTHER	FORCE ACCOUNT OTHER CAPITAL ITEMS	1

Extended Budget Description

The force account will be used for capital expenses, including Broward MPO's labor force, to accomplish this project, which includes design and construction management activities. The activities in this ALI directly relate to this project.

Will 3rd Party contractors be used to fulfill this activity line item?

No, 3rd Party Contractors will not be used for this line item.

Funding Source	Section of Statute	CFDA Number	Amount
Community Project Funding	22-CMPJ-1	20534	\$250,000
Local			\$0
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$250,000

Milestone Name	Est. Completion Date	Description
Start Date	4/1/2025	Commencement of activities to initiate the project.
Commencement of pre-construction activities	4/1/2026	Commencement of pre-construction activities.
End Date	3/30/2031	Closeout of the project.

Budget Activity Line Item: 11.71.04 - CONSTRUCTION MANAGEMENT - 3RD PARTY

Scope Name / Code	Line Item #	Line Item Name	Activity	Quantity
OTHER CAPITAL ITEMS (BUS) (117-00)	11.71.04	CONSTRUCTION MANAGEMENT - 3RD PARTY	3RD PARTY CONTRACTS	1

Extended Budget Description

Construction Engineering and Inspection work includes independent engineer's field inspection of construction improvements for compliance with plans, standards, specifications, regulations, permits, and codes.

Will 3rd Party contractors be used to fulfill this activity line item?

Yes, 3rd Party Contractors will be used for this line item.

Funding Source	Section of Statute	CFDA Number	Amount
Community Project Funding	22-CMPJ-1	20534	\$320,000
Local			\$80,000
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$400,000

Milestone Name	Est. Completion Date	Description
Construction Procurement - CEI	6/30/2025	Construction Management (CEI) Procurement
CEI Start	1/31/2026	Commencement of Construction Engineering & Inspection (CEI) services by selected firm.
CEI End Date	3/30/2031	Final project closeout post-walkthrough with As-built plans and CEI firm.

Project Environmental Findings

Finding: Class II(c) - Categorical Exclusions (C-List)

Class Level Description

Class II(c) consists of projects that do not have a significant environmental impact on the human or natural environment and are therefore categorically excluded from the requirement to prepare an environmental assessment or an environmental impact statement. FTA requires a sufficient project description to support a CE determination. The project may require additional documentation to comply with other environmental laws.

Categorical Exclusion Description

Type 05: Activities, including repairs, replacements, and rehabilitations, designed to promote transportation safety, security, accessibility and effective communication within or adjacent to existing right-of-way, such as: the deployment of Intelligent Transportation Systems and components; installation and improvement of safety and communications equipment, including hazard elimination and mitigation; installation of passenger amenities and traffic signals; and retrofitting existing transportation vehicles, facilities or structures, or upgrading to current standards.

Date	Description	Date
	Class IIc CE Approved	

Scope Name / Code	Line Item Number	Line Item Name	Quantity	FTA Amount	Total Eligible Cost
Bus Associated Transit Improvements (119-00)	11.93.05	CONSTRUCT PED ACCESS / WALKWAYS	1	\$1,086,000.00	\$2,995,000.00
Bus Associated Transit Improvements (119-00)	11.93.02	CONSTRUCTION - BUS SHELTERS	3	\$196,000.00	\$245,000.00
Bus Associated Transit Improvements (119-00)	11.91.05	ENG/DESIGN PED ACCESS / WALKWAYS	1	\$640,000.00	\$800,000.00
OTHER CAPITAL ITEMS (BUS) (117-00)	11.75.95	RIGHT-OF-WAY UTILITY RELOCATION	1	\$8,000.00	\$10,000.00
OTHER CAPITAL ITEMS (BUS) (117-00)	11.72.11	FORCE ACCOUNT - OTHER	1	\$250,000.00	\$250,000.00
OTHER CAPITAL ITEMS (BUS) (117-00)	11.71.04	CONSTRUCTION MANAGEMENT - 3RD PARTY	1	\$320,000.00	\$400,000.00

Part 4: Fleet Details

No fleet data exists for this application.

Part 5: FTA Review Comments

There are no review comments to display at this time.

ATTACHMENT 4- FEDERAL REQUIREMENTS AND PROVISIONS FOR PROFESSIONAL
ENGINEERING SERVICES

**RFQ 250103MS Professional Engineering Services for the Josh Lee Boulevard Improvements
Project**

Engineering

\$ 5,100,000

Request

Maria Salvatierra
msalvatierra@sunrisefl.gov

CITY OF SUNRISE
10770 West Oakland Park Blvd
Sunrise, Florida 33351
+1 954 - 572 - 2274

www.sunrisefl.gov

The following clauses are for inclusion into procurement documents, but can also be inserted into contractual agreements. However, additional clauses and certification may be required for contractual agreements.

ACCESS TO 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, leases, subcontracts, arrangements, other third party Contracts 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 2 C.F.R. § 200.334. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at 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 FTA and its contractors to inspect and audit records and information, including such records and information the contractor or its subcontractors may regard as confidential or proprietary, related to performance of this contract in accordance with 2 CFR § 200.337.
4. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract in accordance with 2 CFR § 200.337.

AMERICANS WITH DISABILITIES ACT(ADA)

The contractor 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, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

CHANGES TO FEDERAL REQUIREMENTS

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.

CIVIL RIGHTS LAWS AND REGULATIONS

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.

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

a) 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), disability, or age, and prohibits discrimination in employment or business opportunity.

b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, Title VI of the Civil Rights Act of 1964," 49 CFR Part 21, and 49 U.S.C. § 5332, prohibits discrimination in employment on the basis of race, color, religion, sex, or national origin.

2 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.

3 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.

4 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.

1. 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.

2. Equal Employment Opportunity. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.; and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements, without regard to their race, color, religion, national origin, or sex (including sexual orientation). In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. 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.

4. 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.

5. Federal Law and Public Policy Requirements. 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; and the Recipient will cooperate with Federal officials in the enforcement of Federal law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement (ICE) and other Federal offices and components of the Department of Homeland Security in the enforcement of Federal immigration law.

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

Clean Air Act

(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.

(2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

Federal Water Pollution Control Act

(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.

(2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA."

DEBARMENT AND SUSPENSION

Debarment and Suspension (Executive Orders 12549 and 12689). A covered transaction (see 2 C.F.R. §§ 180.220 and 1200.220) must not be entered into with any party listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. 180 that implement Executive Orders 12549 (31 U.S.C. § 6101 note, 51 Fed. Reg. 6370,) and 12689 (31 U.S.C. § 6101 note, 54 Fed. Reg. 34131), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Recipient agrees to include, and require each Third Party Participant to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:

- (1) Complies with federal debarment and suspension requirements; and
- (2) Reviews the SAM at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 CFR Part 1200.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)

It is the policy of the Agency and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), 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.

The contractor 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 C.F.R. part 26 in the award and administration of DOT-assisted contracts. 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 the Agency deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 C.F.R. § 26.29(a).

Finally, for contracts with defined DBE contract goals, the contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency's written consent; and that, unless the Agency's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

ENERGY CONSERVATION

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 (42 U.S.C. § 6201).

FLY AMERICA

a) Definitions. As used in this clause—

1) "International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States. 2) "United States" means the 50 States, the District of Columbia, and outlying areas. 3) "U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencies, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions within include, in part, certain Standard Terms and Conditions required under the Uniform Administrative Requirements, Cost Principles, and

Audit Requirements for Federal Awards (2 CFR § 200), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, detailed in 2 CFR § 200 or as amended by 2 CFR § 1201, or the most recent version of FTA Circular 4220.1 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Recipient 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 the Recipient, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

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.

PATENT RIGHTS AND RIGHTS IN DATA

Intellectual Property Rights

This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The Contractor shall grant the Agency intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT.

The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions:

Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution.

For purposes of this Contract, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

1. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes," any subject data or copyright described below. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

a. Any subject data developed under the Contract, whether or not a copyright has been obtained; and

b. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA.

2. Unless FTA determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.

3. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The Contractor shall not be required to indemnify the Federal

Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

4. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

5. Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work.

6. The Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

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.

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.

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.

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- 1) Procure or obtain covered telecommunications equipment or services;
- 2) Extend or renew a contract to procure or obtain covered telecommunications equipment or services; or
- 3) Enter into a contract (or extend or renew a contract) to procure or obtain covered telecommunications equipment or services.

(b) As described in section 889 of Public Law 115-232, "covered telecommunications equipment or services" means any of the following:

- (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;
- (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 the 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;

(c) For the purposes of this section, "covered telecommunications equipment or services" also include systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(d) In implementing the prohibition under section 889 of Public Law 115-232, heads of executive agencies administering loan, grant, or subsidy programs must prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered telecommunications equipment or services, to procure replacement equipment or services, and to ensure that communications service to users and customers is sustained.

(e) When the recipient or subrecipient accepts a loan or grant, it is certifying that it will comply with the prohibition on covered telecommunications equipment and services in this section. The recipient or subrecipient is not required to certify that funds will not be expended on covered telecommunications equipment or services beyond the certification provided upon accepting the loan or grant and those provided upon submitting payment requests and financial reports.

(f) For additional information, see section 889 of Public Law 115-232 and 200.471.

PROMPT PAYMENT

(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)

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. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

The contractor must promptly notify the Agency, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Agency.

RESTRICTIONS ON LOBBYING

Conditions on use of funds.

(a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.

(c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.

(d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, whether that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

(e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form if that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

Certification and disclosure.

(a) Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:

- (1) Award of a Federal contract, grant, or cooperative agreement exceeding \$100,000; or
- (2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.

(b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:

- (1) A Federal contract, grant, or cooperative agreement exceeding \$100,000; or
- (2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000,

Unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.

(c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes:

- (1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
- (2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,
- (3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(d) Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:

- (1) A subcontract exceeding \$100,000 at any tier under a Federal contract;
- (2) A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant;
- (3) A contract or subcontract exceeding \$100,000 at any tier under a Federal loan exceeding \$150,000; or,
- (4) A contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement,

Shall file a certification, and a disclosure form, if required, to the next tier above.

(e) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (a) or (b) of this section. That person shall forward all disclosure forms to the agency.

(f) Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.

(g) For awards and commitments in process prior to December 23, 1989, but not made before that date, certifications shall be required at award or commitment, covering activities occurring between December 23, 1989, and the date of award or commitment. However, for awards and commitments in process prior to the December 23, 1989 effective date of these provisions, but not made before December 23, 1989, disclosure forms shall not be required at time of award or commitment but shall be filed within 30 days.

(h) No reporting is required for an activity paid for with appropriated funds if that activity is allowable under either subpart B or C.

SAFE OPERATION OF MOTOR VEHICLES

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 Agency.

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 Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

SEISMIC SAFETY

The contractor agrees that any 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 (DOT) Seismic Safety Regulations 49 C.F.R. 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.

SIMPLIFIED ACQUISITION THRESHOLD

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.327. The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America's eligibility and process requirements apply to any procurement in excess of \$150,000. 49 U.S.C. § 5323(j)(13).

SPECIAL NOTIFICATION REQUIREMENTS FOR STATES

Applies to States –

a. To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:

- (1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
- (2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
- (3) The amount of federal assistance FTA has provided for a State Program or Project.

b. Documents - The State agrees to provide the information required under this provision in the following documents:

- (1) applications for federal assistance,
- (2) requests for proposals or solicitations,
- (3) forms,
- (4) notifications,
- (5) press releases,
- (6) other publications.

TERMINATION

Termination for Convenience (General Provision)

The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency'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 Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs.

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, the Agency 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 be paid only 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 the Agency 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, the Agency, 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.

Opportunity to Cure (General Provision)

The Agency, 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 Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Agency setting forth the nature of said breach or default, Agency 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 Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach

In the event that Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Agency shall not limit Agency's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

Termination for Convenience (Professional or Transit Service Contracts)

The Agency, by written notice, may terminate this contract, in whole or in part, when it is in the Agency's interest. If this contract is terminated, the Agency shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

Termination for Default (Supplies and Service)

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. 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 the Agency.

Termination for Default (Transportation Services)

If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve the goods until surrendered to the Agency or its agent. The Contractor and Agency shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

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 the Agency.

Termination for Default (Construction)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default.

In this event, the Agency may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Agency resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Agency in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if: 1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and 2. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract. 3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Agency.

Termination for Convenience or Default (Architect and Engineering)

The Agency may terminate this contract in whole or in part, for the Agency's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Agency 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 Agency's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. Agency has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of the Agency, the Agency's 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, the Agency may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency.

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 Agency.

Termination for Convenience or Default (Cost-Type Contracts)

The Agency may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of Agency or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the Agency, or property supplied to the Contractor by the Agency. If the termination is for default, the Agency may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of Agency, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a Notice of Termination for Default, the Agency determines that the Contractor has an excusable reason for not performing, the Agency, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

VIOLATION AND BREACH OF CONTRACT

Disputes:

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the agency. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the agencies authorized representative. 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 agencies authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance during Dispute:

Unless otherwise directed by the agencies authorized representative, 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 party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore 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 the agencies authorized representative and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Agency is located.

Rights and Remedies:

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 the Agency 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.

OTHER RECOMMENDED CONTRACT REQUIREMENTS

CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards pursuant to 23 CFR § 940. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

(1) The contractor certifies that it:

(a) 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

(b) 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.

(2) 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 subagreement.

SEVERABILITY

The Contractor agrees that if any provision of this agreement or any amendment thereto is determined to be invalid, then the remaining provisions thereof that conform to federal laws, regulations, requirements, and guidance will continue in effect.

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 subagreements thereunder.

Federal Certifications

CERTIFICATION AND RESTRICTIONS ON LOBBYING

I, _____ hereby certify
(Name and title of official)

On behalf of _____ that:
(Name of Bidder/Company Name)

- No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.,

Name of Bidder/Company Name: _____

Type or print name: _____

Signature of authorized representative: _____ Date _____ / _____ / _____

**GOVERNMENT-WIDE DEBARMENT AND SUSPENSION
(NONPROCUREMENT)**

Recipients, contractors, and subcontractors that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) with which they propose to contract or subcontract is not excluded or disqualified. This is done by: (a) checking the SAM exclusions; (b) collecting a certification from that person (found below); or (c) adding a clause or condition to the contract or subcontract.

Instructions for Certification: Signing below indicates the prospective lower tier participant is providing the signed certification.

(1) It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 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 (Nonprocurement)," 2 CFR part 180,

(2) To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:

a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:

1. Debarred,
2. Suspension,
3. Proposed for debarment,
4. Declared ineligible,
5. Voluntarily excluded, or
6. Disqualified

b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:

1. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
2. Violation of any Federal or State antitrust statute, or,
3. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,

c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,

d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,

e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a – 2.d above, it will promptly provide that information to FTA,

f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:

1. Equals or exceeds \$25,000,
2. Is for audit services, or,
3. Requires the consent of a Federal official, and

g. It will require that each covered lower tier contractor and subcontractor:

1. Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
2. Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:
 - a. Debarred from participation in its federally funded Project,
 - b. Suspended from participation in its federally funded Project,
 - c. Proposed for debarment from participation in its federally funded Project,
 - d. Declared ineligible to participate in its federally funded Project,
 - e. Voluntarily excluded from participation in its federally funded Project, or
 - f. Disqualified from participation in its federally funded Project, and

(3) It will provide a written explanation as indicated on a page attached in FTA's TrAMS platform or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third-Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

Certification

Contractor: _____

Signature of Authorized Official: _____ Date _____ / _____ / _____

Name and Title of Contractor's Authorized Official: _____