

**TECHNICAL SERVICES AGREEMENT**

**between**

**THE REGIONAL TRANSPORTATION AUTHORITY**

**and**

**CITY OF NAPERVILLE**

**Contract No.: S5310-2015-02**

**CFDA No.: 20.513**

**Federal Project No.: IL-2017-017-01**

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This Technical Services Agreement (this "Agreement") is made by and between the Regional Transportation Authority, a municipal corporation and body politic formed under the laws of Illinois (the "RTA"), and the City of Naperville, a municipal corporation and body politic formed under the laws of the State of Illinois hereinafter referred to as "Recipient" (also referred to as "Grantee," which term shall include its successors, assigns and subrecipients/subgrantees)<sup>1</sup> as of the later date of execution by the RTA or the Grantee.

WHEREAS, the Recipient wishes to undertake one or more public transportation projects;  
and

WHEREAS, the Recipient has made application to the RTA for financial assistance or financial and technical assistance for the project(s) in accordance with the procedures established by the RTA; and

WHEREAS, the Recipient's application has been reviewed and approved by the RTA;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, this Agreement is made to provide financial assistance or financial and technical assistance to the Recipient in the form of a technical services agreement (hereinafter referred to as the "Agreement"), to set forth the terms and conditions upon which the Agreement will be made, and to set forth the Agreement of the parties as to the manner in which the project(s) will be undertaken, completed, and used.

## **ARTICLE I: DEFINITIONS**

1.1 "Allowable Cost" means an expense with respect to the Project(s) which meets the requirements of Article IX of this Agreement.

1.2 "Application" means the application submitted by the Recipient with respect to the Project(s). In the event of a conflict between the Application and the attached Exhibit A, Scope of Services, Exhibit A shall govern.

1.3 "Local Share" means that portion of the Net Project Cost of each Project provided by the Recipient pursuant to this Agreement.

1.4 "Net Project Cost" means the sum of the allowable costs incurred in performing the work on each Project, including work done by the Recipient.

1.5 "Project(s)" means the scope of specific activities for which the funds provided in this Agreement are to be expended, as set forth in Exhibit A, Scope of Services and in the plans, specifications, and schedules set forth in the Application.

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<sup>1</sup> This document incorporates Federal Certifications and Assurances copied incorporated verbatim from federal circulars. The Certifications and Assurances also use the terms "Recipient," "Subrecipient" and "Applicant" interchangeably. The terms of this agreement and all federal requirements apply to any recipient of federal funds regardless of its status as Recipient, Subrecipient, Grantee, Subgrantee or Applicant, vis-à-vis the federal granting agency.

1.6 "Project Budget" means the anticipated Net Project Cost for each Project as shown in Exhibit B, Project Budget, as may be amended from time to time by the Recipient with RTA approval and in a format approved by the RTA.

1.7 "Project Facilities" means any facilities, equipment, or real property purchased, acquired, constructed, improved, renovated, or refurbished as part of each Project through the application of the RTA's Agreement funds.

1.8 "Service Life" shall mean, with respect to each Project Facility, the period set forth with respect to such Project Facility on Exhibit B, if applicable.

## **ARTICLE II: THE RECIPIENT'S AUTHORITY AND COMMITMENT**

2.1 The Recipient represents and warrants that it has the legal authority and the financial, technical, and managerial capacity to apply for, plan, manage, and complete the Project(s) for which funding is being provided under this Agreement.

2.2 The Recipient acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the United States or State of Illinois in connection with this Project, they reserve the right to impose on the Recipient the penalties of 18 USC 1001, 49 USC 5307, 31 USC 3801, and 49 CFR 31, as they may deem appropriate. Recipient agrees to include this clause in all state and federally-assisted contracts and subcontracts.

2.3 The Recipient agrees to undertake and complete the scope of each Project as set out in Exhibit A, Scope of Services, and in accordance with the Project Budget as set out in Exhibit B, Project Budget, and to provide for the use of Project Facilities as described in Exhibit A and the Application, in accordance with this Agreement and all applicable laws.

## **ARTICLE III: TERM OF AGREEMENT**

3.1 The term of this Agreement shall be from 01/01/17 to 12/31/2019.

## **ARTICLE IV: TECHNICAL SERVICES AGREEMENT**

4.1 RTA Budget Commitment.

(a) Subject to the annual appropriation of funds by the RTA, the RTA hereby commits to provide the funds pursuant to paragraph 4.1(b) and as listed in Exhibit B, Project Budget, for the Project(s) in Exhibit A, Scope of Services.

(b) The RTA will provide 50.00% of the aggregate actual cost of all Projects as set forth on Exhibit B, or \$372,026.00, whichever is less. The RTA shall have no liability regarding any Project funded by this Agreement in excess of the funds actually appropriated for the Project.

#### 4.2 Recipient Commitment to Complete Project(s) or Seek Amendment.

Subject to the RTA's appropriation of the funds described in paragraph 4.1, the Recipient agrees to complete the scope of all the Projects, and to provide funding up to the amount of Local Share of the Project Budget, or to seek an amendment in accordance with this subparagraph. The Recipient shall request an amendment to the Agreement in order to (1) add or delete a Project, (2) change the scope of any Project, or (3) change the Project Budget(s).

#### 4.3 Conformity with Project Budget.

(a) The Recipient shall carry out each Project and shall incur obligations against and disburse Project funds only in conformance with the latest approved Project Budget attached hereto as Exhibit B. A proposed revised Project Budget shall accompany any request to amend this Agreement.

(b) The Recipient must seek the prior approval of the RTA to revise the Project Budget(s) to increase or decrease the estimated Net Project Cost. In making this request the Recipient must demonstrate the following:

- (1) A justifiable rationale for the revision in a particular Project;
- (2) The revised budget for the Project covers the full scope of the Project funded under this Agreement, i.e., the revised budget of the Project is intended to be adequate for the completion of the Project;
- (3) There are sufficient unspent funds in the Agreement contingency, should one be part of this Agreement, or any other Project which may be reallocated to the revised budget of the revised Project;
- (4) The funds remaining in the Agreement contingency, should one be part of this Agreement, or any other Project after reallocation of funds to the revised budget for the Project are sufficient to provide for the uncompleted portions of all other Projects within the Agreement; and
- (5) The proposed revision will not cause the aggregate amount of all Project Budgets as set forth on Exhibit B to be exceeded.

#### 4.4 Conformity with Program Management Plan (PMP).

(a) The Recipient shall adhere to the Program Management Plan (PMP) as included in Exhibit E.

### **ARTICLE V: METHOD OF FUNDING**

5.1 The RTA may finance its obligations, or any portion thereof, under this Agreement in any way it deems, in its sole discretion, to be most advantageous and fiscally sound, provided that

nothing in this Agreement shall cause the Recipient to be obligated to any creditor of the RTA with respect to such financing.

5.2 All or part of any share of the Net Project Cost to be contributed by the Recipient may, with the express written prior approval of the RTA, be provided by the Recipient in the form of contributions of professional, technical or other services. The amount or value of any share of the Net Project Cost contributed by the Recipient is shown in Exhibit B.

5.3 In the event that the Recipient receives funds from any source with respect to the completion of the Project which do not appear in Exhibit B and were not included in determining the RTA share under paragraph 4.1(b) of this Agreement, the amount of this Agreement shall be recalculated and a proportionate amount of the RTA funding shall be refunded to the RTA. Such funds include, but are not limited to, the proceeds of any sale and leaseback arrangement with respect to Project Facilities, if any. This Section 5.3 shall survive the termination or expiration of this Agreement, whether by lapse of time or otherwise for a period equal to the Service Life of the relevant Project Facility.

## **ARTICLE VI: ACCOMPLISHMENT OF THE PROJECT(S)**

### 6.1 General.

(a) The Recipient shall commence, carry on, and complete the Project(s) with all practicable dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions of this Agreement. The Recipient shall cause all contractors involved with the Project(s) to deliver and complete the Project(s) in accordance with the Project schedules submitted at time of application or as revised pursuant to paragraph 6.2(b) of this Agreement.

(b) In performance of its obligations pursuant to this Agreement, the Recipient and the contractors shall comply with all applicable provisions of federal, state, and local law. Specifically, Recipient and contractors agree to administer the Project in accordance with the applicable federal and state provisions, including all applicable Federal Transit Administration (hereinafter referred to as "FTA") Circulars and 49 CFR 18 and 19. All limits and standards set forth in this Agreement to be observed in the performance of a Project are minimum requirements and shall not affect the application of more restrictive standards to the performance of the Project.

(c) At or prior to the time that funds are needed to meet Project costs, the Recipient shall initiate and prosecute to completion all proceedings necessary to enable the Recipient to provide any share of the Net Project Cost which is to be provided by the Recipient.

(d) Nothing in this Agreement is intended to subject the RTA to any obligations or liabilities to contractors of the Recipient, or their respective subcontractors, or any other person not a party to this Agreement in connection with the performance of any Project pursuant to the provisions of this Agreement, notwithstanding its concurrence in or approval of the award of any contract or subcontract or the solicitation thereof.

## 6.2 Project Completion.

(a) Any failure, except a force majeure event or any other reason beyond the control of the Recipient, to make progress which significantly endangers substantial performance of a Project within a reasonable time shall be deemed to be a violation of the terms of this Agreement.

(b) The Recipient shall complete each Project in accordance with the Project completion date provided at time of application or as revised. In the event the Recipient determines that, for whatever reason, a Project cannot be completed in accordance with the Project schedule, the Recipient shall immediately notify the RTA in writing, within thirty days, of: 1) the nature and extent of the delay; 2) the reason or reasons for the delay; 3) the adjustments to the Project schedule which can be made to ensure that the Project is completed on schedule; and 4) if the Project cannot be completed on schedule, the implications on the Project Budget due to the delay.

## 6.3 Use of Facilities.

(a) The Project Facilities, if any, shall be used by the Recipient as described in the Recipient's final, approved Application.

(b) If during the Service Life, the Project Facilities are not used in this manner, are sold or are otherwise disposed of, or are withdrawn from mass transportation service at the initiative of the Recipient (if applicable), the Recipient shall immediately notify the RTA and shall, at the RTA's discretion, remit to the RTA a proportional amount of the fair market value, if any, of the Project Facilities (determined on the basis of the ratio of the amounts paid by the RTA pursuant to this Agreement to the total cost of such Project Facilities). The fair market value shall be deemed to be the value of the Project Facilities as determined by a competent appraisal conducted as soon as feasible after such withdrawal or misuse occurs; or the actual proceeds from the public sale of such property, whichever is approved by the RTA; or, for rolling stock, the unamortized value of the remaining service life per unit based on straight-line depreciation of the original purchase price. Any appraiser employed for such purposes shall be subject to disapproval by the RTA on the grounds that it is not an independent appraiser.

(c) The Recipient shall maintain, in an amount and form satisfactory to the RTA, insurance or self-insurance with such reserves as will be adequate to protect Project Facilities throughout the period of their useful lives. The cost of such insurance shall not be an Allowable Cost for the Projects.

(d) This Section 6.3 shall survive the termination or expiration of this Agreement, whether by lapse of time or otherwise, for a period equal to the Service Life of the relevant Project Facility.

## **ARTICLE VII: PASS-THROUGH FUNDING PROVISIONS**

7.1 If this Agreement provides any portion of funding for which the RTA receives funds from a governmental entity subject to agreement, grant, or contract, the provisions contained therein and as detailed in the attached Exhibit C, Federal Certifications and Assurances, are hereby incorporated by reference and made a part of this Agreement. The Recipient shall carry out each

Project in such a manner as to comply with the requirements contained herein and the requirements of any governmental agreement, rules and regulations applicable to this Project. If it is not possible to carry out the project in such a manner, the Recipient shall, as soon as practicable, notify the RTA in writing of the specific provisions of each agreement, rule or regulation in conflict and reasons for conflict in order that appropriate arrangements may be made between the parties and any governmental entity to permit the Project to proceed.

7.2 The Recipient acknowledges that federal and state governmental requirements may change and the changed requirements will apply to the Project as required. The Recipient acknowledges that a reference to a specific law in this Agreement is considered to be a reference to 1) such law as it may be amended, modified or supplemented from time to time, 2) all regulations and rules pertaining to or promulgated pursuant to such law, (c) the successor to the law resulting from recodification or similar reorganizing of laws and (d) all future laws pertaining to the same or similar subject matter. The Recipient agrees to include in all subcontracts or lower tier agreements specific notice to this effect.

7.3 The Illinois Department of Transportation (IDOT) and the FTA shall not be subject to any obligations or liabilities by or to the Recipient or contractors of the Recipient or their subcontractors or any other person not party to this Agreement in connection with the performance of this Project, without their respective express written consent, notwithstanding the concurrence in or approval of the solicitation or the award by IDOT or FTA to such contractors or subcontractor(s). The Recipient agrees to include this clause in each subcontract or lower tier agreement financed in whole or in part with federal and/or state assistance.

## **ARTICLE VIII: PROJECT ADMINISTRATION AND MANAGEMENT**

### **8.1 Project Management.**

- (a) The Recipient is responsible for administration and management of each Project.
- (b) The RTA or its designee may conduct periodic on-site inspections of each Project to evaluate the effectiveness of the Recipient's arrangement for supervision and inspection and to evaluate the work done on the Project and adherence to this Agreement. The Recipient shall provide reasonable access to its premises, or cause its contractors to provide reasonable access to their premises, for the RTA and its designee to permit these inspections. Inspection of, or concurrence by, RTA in Project work does not relieve the Recipient of its responsibilities and liabilities. Any inspection must be coordinated with the Recipient's personnel for purposes of providing reasonable notice and adhering to safety regulations.
- (c) Any Project management plan or amendment to such plan provided pursuant to any governmental agreement, grant or contract for any Project in this Agreement shall require written approval of the RTA.
- (d) The Recipient shall report to the RTA regarding all Projects in this Agreement and shall provide to the RTA such information that the RTA deems necessary to meet its reporting responsibilities or other requests from the FTA or any other governmental agency. When requesting reimbursement from the RTA, the Recipient will be required to submit detailed requisitions and progress reports supported by properly executed payrolls, time records, invoices, contracts, or vouchers, evidencing in detail the nature and propriety of the charges.



## ARTICLE IX: REQUISITION, PAYMENT PROCEDURES, AND RECORD KEEPING

9.1 The Recipient shall establish and maintain as a separate set of accounts, or as an integral part of its current accounting scheme, accounts for each Project in conformity with requirements established by the RTA.

### 9.2 Allowable Costs.

Funds provided by the RTA under this Agreement shall only be used to pay or reimburse the Recipient for allowable costs for a Project which meets all of the requirements set forth below:

(a) They shall be made in conformance with the final, approved Exhibit A, Scope of Services, and Exhibit B, Project Budget(s), and all other provisions of this Agreement;

(b) They shall be necessary in order to accomplish the Project;

(c) They shall be reasonable in amount for the goods or services purchased;

(d) They shall be actual net costs to the Recipient (i.e., the price paid minus any refunds, rebates, or other items of value received by the Recipient which have the effect of reducing the cost actually incurred);

(e) They shall be incurred (and for work performed) after the effective date of this Agreement, unless specific authorization from the RTA to the contrary is received (in no event will the RTA provide funding to reimburse expenses incurred after expiration of this Agreement);

(f) To the extent applicable, they shall be in conformance with the standards for allowability of costs established by IDOT. State of Illinois rates apply for travel, lodging, meals and other expenses, as applicable.

(g) They shall be satisfactorily documented;

(h) They shall be treated uniformly and consistently under accounting principles and procedures approved or prescribed by generally accepted accounting principles, and those approved or prescribed by the Recipient for its contractors; and

(i) They shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in detail the nature and propriety of the charges. (In the event that it may be impractical to determine exact costs of indirect or service functions, allowable costs will include such allowances for these costs as may be approved by the RTA.)

### 9.3 Payment Procedures.

(a) The Recipient may make requests for payment of allowable costs under the Agreement, and the RTA shall honor such requests in the manner set forth in this paragraph. In order to receive payments, the Recipient shall:

- (1) Execute and submit to the RTA a requisition for approval by the RTA;
- (2) Have submitted all financial, progress, and other reports required by the RTA; and
- (3) Have received approval by the RTA for any budget revisions required to cover all costs to be incurred by the end of the requisition period.

(b) Upon receipt of the completed requisition form and the accompanying information in satisfactory form, the RTA shall process the requisition. If the Recipient is complying with its obligations pursuant to the Agreement, the RTA shall reimburse apparent allowable costs incurred by the Recipient up to the maximum amount of the RTA Agreement. Such reimbursement shall be made within sixty (60) days after receipt of each request for same from the recipient. However, reimbursement of any cost pursuant to this paragraph shall not constitute a final determination by the RTA of the allowability of such cost and shall not constitute a waiver of any violation of the terms of this Agreement committed by the Recipient. The RTA will make a final determination as to the allowability of costs only after a final audit of the Agreement has been conducted pursuant to Article XI of the Agreement.

(c) In the event that the RTA determines that the payment should not be made, it shall notify the Recipient within twenty (20) days after receipt of the completed requisition form, stating the reasons for such determination.

(d) The Recipient agrees that upon completion of all of the Projects in this Agreement and after payment or provision for payment or reimbursement of all allowable costs, the Recipient shall refund to the RTA any unexpended balance of funds received by the Recipient under this Agreement.

#### 9.4 Records Retention.

(a) All books, records, and supporting documents to verify the amounts, recipients, and uses of all disbursements of funds passing in conjunction with this Agreement, this Agreement and all books, records, and supporting documents related to the Agreement must be retained by Recipient for a minimum of five (5) years after completion of this Agreement or such longer time as may be required by any governmental agency from which funds are obtained and shall be available for review and audit by authorized representatives of the RTA, the Illinois Auditor General, IDOT, the FTA, or another governmental agency with the following qualifications:

(1) All records must be retained until final audit is completed and all audit findings are resolved, unless otherwise agreed to by the RTA;

(2) If any litigation or claim is initiated before completion of the final audit, records must be retained until all litigation or claims involving these records have been resolved; and

(3) Records of any property acquired with RTA funds must be retained for three years after final disposition of the property.

(b) Should the Recipient administer any system of records on behalf of the Federal or State Government, the Privacy Act of 1974, 5 USC 552 and 49 CFR 10, Subpart C, imposes information restrictions on the party managing the system of records.

#### 9.5 Audits.

(a) Pursuant to all applicable Office of Management and Budget Circulars, the Recipient shall permit, and shall require its contractors to permit, at anytime, the RTA, or IDOT or other state or federal agency, authorized to perform such audit and inspection, to inspect all work, materials, payrolls, and other data and records, including computer or electronically generated records, documents, and data, with regard to each Project, and to audit the books, records, and accounts of the Recipient and its contractors with regard to each Project. The RTA also may require the Recipient to furnish at any time prior to closeout of the Agreement, audit reports with respect to the Agreement prepared according to generally accepted accounting principles. The Recipient agrees to promptly comply with recommendations contained in any RTA, IDOT or other state or federal agency final audit report.

(b) In accordance with 49 USC 5325(g), the Grantee agrees to require each third party whose contract award is not based on competitive bidding procedures as defined by the Secretary of U.S. DOT, to permit the Secretary, Comptroller General of the U.S., IDOT, the RTA, or their duly authorized representatives, to inspect all work, materials, payrolls, and other data and records involving that third party contract and audit the books, records, and accounts involved.

### **ARTICLE X: RIGHT OF THE RTA TO TERMINATE**

10.1 Upon written notice to the Recipient, the RTA may suspend or terminate all or part of the financial and/or technical assistance provided herein if the Recipient is or has been in violation of the terms of the Agreement (including its obligation to provide for a portion of the funding for each Project as reflected on Exhibit B, if applicable), or if funding provided to the RTA pursuant to paragraph 7.1 is terminated. Termination of any Project in this Agreement will not invalidate obligations of the RTA to reimburse the Recipient for Project costs incurred up to and including the date of termination, nor invalidate obligations of the Recipient, properly incurred by the Recipient, to the extent they are noncancellable. The acceptance of a remittance by the RTA of any or all Project funds previously received by the Recipient or the closing out of the RTA financial participation in the Project shall not constitute a waiver of any claim which the RTA may otherwise have arising out of this Agreement.

For example, the foregoing remedies shall become available to the RTA if one of the following occurs:

(a) There is any misrepresentation of a material nature in the Application, or amendment thereof, or in respect to this Agreement or any document or data furnished pursuant hereto, or any other submission of the Recipient required by the RTA in connection with this Agreement;

(b) There is pending litigation which, in the opinion of the RTA, may jeopardize funding provided to the RTA pursuant to paragraph 7.1 of this Agreement;

(c) There has been in connection with the funding provided to the RTA pursuant to paragraph 7.1, any violation of the state or federal regulations, ordinances or statutes applicable to the Recipient, its officers or employees which, in the opinion of the RTA, affects this Agreement;

(d) Any funds provided by the RTA pursuant to this Agreement are used for an ineligible purpose;

(e) The Recipient is unable to substantiate the proper use of funding provided to the RTA pursuant to paragraph 7.1;

(f) The Recipient is in default under any of the provisions of this Agreement;

(g) There is failure to make progress which significantly endangers substantial completion of performance of the Project within a reasonable time, which failure shall be deemed to be a violation of the terms of this Agreement;

(h) The Recipient has failed to maintain the Project Facilities as required by this Agreement;

(i) The RTA determines that the purposes of the applicable governing laws would not be adequately served by continuation of state or federal assistance to the Project;

(j) The State Legislature or any federal agency fails to make sufficient appropriations for funding pertinent to that provided to the RTA pursuant to paragraph 7.1.

## **ARTICLE XI: SETTLEMENT AND CLOSE-OUT**

11.1 Upon receipt of notice of successful completion of the Agreement or upon termination by the RTA, the RTA at its discretion will perform or contract for the performance of a final audit to determine the final allowability of costs incurred, and shall make final settlement of the RTA's obligations described in this Agreement. If the RTA has made payments to the Recipient in excess of the total amount of such RTA obligations, the Recipient shall promptly remit such excess to the RTA. The Agreement close-out occurs when the RTA notifies the Recipient and forwards the final Agreement payment or when an appropriate refund of RTA Agreement funds has been received from the Recipient and acknowledged by the RTA. Agreement close-out shall be subject to any continuing obligations imposed on the Recipient by this Agreement or contained in the final notification or acknowledgment from the RTA.

## ARTICLE XII: PROCUREMENT

### 12.1 Procurement Procedures.

(a) The Recipient shall follow applicable federal, state, and local law and procedures when awarding and administering contracts for goods and services funded by this Agreement. Any such contract or subcontract for goods, property and services exceeding \$40,000 shall contain all the clauses pursuant to FTA Circular 4220.1E and 49 CFR 18.36, 19.40-19.48, and the parties shall comply with the requirements therein.

(b) Apart from inconsistent requirements imposed by federal and state law, the Recipient (and its subcontractors) agrees that no federal or state funds shall be used to support procurement utilizing exclusionary or discriminatory specifications and it will comply with 49 USC 5323(h)(2).

(c) The Recipient agrees to comply with U.S. Maritime Administration Regulations, "Cargo Preference – U.S. Flag Vessels," 46 CFR 381, to the extent those regulations apply to the Project, and insert the substance of the provisions of this clause in all subcontracts issued pursuant to this Agreement.

(d) To the extent applicable, the Recipient agrees to comply with the requirements of 49 USC 5323 and FTA regulations, "Bus Testing", 49 CFR 665, and agrees to provide the RTA with applicable certifications and obtain applicable certifications from contractors, subcontractors and manufacturers.

(e) Each third party contract (valued at more than \$100,000 for Construction and Acquisition of Goods or Rolling Stock) utilizing FTA assistance must conform with 49 USC 5323(j), and FTA regulations, "Buy America Requirements," 49 CFR 661.

(f) The Recipient agrees to refrain from using state or local geographic preferences, except those expressly mandated or encouraged by federal statute, and as permitted by IDOT and FTA.

(g) The Recipient agrees to comply with the requirements of Executive Order No. 12549 and 12689 "Debarment and Suspension," and U.S. Department of Transportation (DOT) regulations on Debarment, 49 CFR 29, and agrees to obtain applicable certifications from contractors and subcontractors and otherwise comply with federal and state regulations.

(h) The Recipient certifies that it has not been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois or local government, nor has the Recipient made an admission of guilt of such conduct which is a matter of record, nor has an official, agent or employee of the Recipient committed bribery or attempted bribery on behalf of the Recipient and pursuant to the direction or authorization of a responsible official of the Recipient. The Recipient further certifies that it has not been barred from contracting with a unit of the State or local government as a result of a violation of Title III, Part E, Article 33 of the Criminal Code.

(i) Electronic and Information Technology – to the extent applicable, Recipient agrees to include in its specification requirements that all reports or information will be prepared and provided using electronic or information technology capable of assuring that, when provided to the RTA, it will meet with the applicable accessibility standards of Section 508 of the Rehabilitation Act of 1973, as amended, 29 USC 794(d) and U.S. Architecture and Transportation Barriers Compliance Board (ATBCB) regulations “Electronic and Information Technology Accessibility Standards,” 36 CFR 1194.

## 12.2 Procurement Review.

The Recipient must obtain preaward approval from the RTA for: (1) any proposed third party contract; (2) any change order with a third party contractor; and (3) any use of force account for activities funded by this Agreement.

## **ARTICLE XIII: SETTLEMENT OF THIRD PARTY CONTRACT DISPUTES OR BREACHES**

13.1 The RTA has a vested interest in the settlement of disputes, defaults, or breaches involving any RTA-assisted third party contracts for any Project. The RTA retains a right to a proportional share, based on the percentage of the RTA share committed to any Project, of any proceeds derived from any third party recovery, after taking into account any costs incurred by the Recipient in securing the recovery. Therefore, the Recipient shall avail itself of all legal rights available under any third party contract. The Recipient shall notify the RTA of any litigation pertaining to any third party contract. The RTA reserves the right to concur in any compromise or settlement of the Recipient’s claim(s) involving any third party contract. If the third party contract contains a liquidated damages provision, such proportional share of any liquidated damages recovered shall be credited to the Project account unless the RTA permits otherwise.

## **ARTICLE XIV: ASSIGNMENT OF CONTRACT -- SUBCONTRACTORS**

14.1 The Recipient agrees that no contract for services of any kind in connection with a Project funded by this Agreement shall be assigned, transferred, conveyed, sublet, or otherwise disposed of without the prior written consent of the RTA. All subcontracts shall contain all applicable contract clauses pursuant to federal and state requirements, and as required by this Agreement.

## **ARTICLE XV: INDEMNIFICATION**

15.1 The Recipient agrees to save or hold harmless and indemnify the RTA from and against any and all losses, expenses, damages (including loss of use), demands, and claims, and shall defend any suit or action, whether at law or in equity, brought against it based on any alleged injury (including death) or damage relating to or arising out of any act or omission of the Recipient, its officers, employees and agents with respect to any Project funded by this Agreement and shall pay all damages, judgments, costs, and expenses, including attorney's fees, in connection with any demands and claims resulting therefrom; provided, however, that the Recipient shall not be required to save harmless, indemnify, or defend the RTA due to the negligence or misconduct of the RTA or

its successors, assigns, agents, or employees or their respective failure to reasonably perform under this Agreement. This Section 15.1 shall survive the termination or expiration of this Agreement, whether by lapse of time or otherwise.

#### **ARTICLE XVI: INDEPENDENCE OF RECIPIENT**

16.1 In no event shall the Recipient or any of its employees, agents, contractors or subcontractors be considered agents or employees of the RTA, IDOT, FTA, U.S. Department of Transportation, or State of Illinois. Furthermore, the Recipient agrees that none of its employees, agents, contractors, or subcontractors will hold themselves out as, or claim to be, agents, officers, or employees of the RTA, U.S. Government, or State of Illinois and will not by reason of any relationship with the Agreement make any claim, demand, or application to or for any right or privilege applicable to an agent, officer, or employees of the RTA, U.S. Government, or State of Illinois, including but not limited to, rights and privileges concerning workmen's compensation and occupational diseases coverage, unemployment compensation benefits, Social Security coverage, or retirement membership or credit.

#### **ARTICLE XVII: NON-COLLUSION**

17.1 The Recipient warrants that it has not paid and agrees not to pay any bonus, commission, fee, or gratuity for the purpose of obtaining any approval of its Application for any Project pursuant to this Agreement. No Recipient officer or employee, or member of any unit of local government which contributes funds to any Project funded by this Agreement shall be admitted to any share or part of this Agreement or to any benefit arising therefrom other than nominal.

#### **ARTICLE XVIII: CONFLICTS OF INTEREST**

18.1 The Recipient hereby certifies that: (1) no employee, officer, board member, or agent of the Recipient is a director, officer or employee of the RTA or (2) if such relationship exists, it is not prohibited by any applicable conflict of interest laws. The Recipient further certifies that, to its knowledge, no employee, officer, board member, or agent of the Recipient has participated in the selection, award, or administration of a contract supported by federal or state funds where such participation constitutes a conflict of interest, whether real or apparent. This conflict of interest requirement applies to all former employees, officers, board members, and agents for one year from the date the employee, officer, board member, or agent ended its employment with the Recipient.

The Recipient acknowledges that no director, officer or employee of the RTA may represent the Recipient with respect to any application or agreement in regard to which such director, officer or employee may be called upon to vote. The Recipient hereby certifies that it has not been, and shall not be, represented by any director, officer or employee of the RTA with respect to its application for financial or financial and technical assistance or this Agreement.

The Recipient agrees that its employees, officers, board members, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. The RTA may waive the prohibition contained in this subsection, provided that any such present employee, officer, board member, or agent shall not participate in any action by the Recipient relating to such contract, subcontract, or arrangement.

18.2 The Recipient agrees that it will prevent any real and apparent organizational conflict of interest. An organizational conflict of interest exists when the nature of the work to be performed under a proposed third party contract or subcontract may, without some restriction on future activities, result in an unfair competitive advantage to the third party contractor or recipient or impair the objectivity in performing the contract work.

#### **ARTICLE XIX: RECIPIENT'S RESPONSIBILITY FOR COMPLIANCE**

19.1 Irrespective of the participation of other parties or third party contractors, the Recipient remains primarily responsible for compliance with this Agreement and all applicable federal, state, and local laws and regulations. If the Recipient will receive federal funds or funds from the Illinois Department of Transportation under this Agreement, the Recipient must complete Exhibit C, Certifications and Assurances, and comply with applicable terms and conditions therein. In addition, if the Recipient will receive federal funds under this Agreement, the Recipient must complete Exhibit D, Annual Certification to Comply with Code of Federal Regulations (CFR) – Title 2, Part 200 Audit Requirements, and comply with the terms and conditions therein.

#### **ARTICLE XX: LABOR LAW COMPLIANCE**

20.1 The Recipient agrees to comply with the labor law compliance provisions of any FTA grant contract pertaining to any Project funded by this Agreement and all applicable federal and state labor laws and regulations including, but not limited to, such laws and regulations relating to minimum wages to be paid to employees, limitations upon the employment of minors, minimum fair wage standards for minors, payment of wages due employees, and health and safety of employees.

(a) Contract Work Hours and Safety Standards. The requirements of the clauses contained in 29 CFR 5.5(b) are applicable to any contract subject to the overtime provisions of the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1. The Recipient and its subcontractors shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contracts for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classification, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this clause shall be made available by the Recipient or its subcontractors for inspection, copying, or transcription by authorized representatives of the FTA, U.S. Department of Transportation, or Department of Labor, and the Recipient or its subcontractors will permit such representatives to interview employees during working hours on the job.

(b) The Recipient or contractor shall insert in any subcontract the clauses set forth in 29 CFR 5.5(b), and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in 29 CFR 5.5(b) involving overtime pay, unpaid wages and withholding for unpaid wages.



20.2 The Recipient also agrees to require any contractor performing professional or consulting service in connection with any Project funded by this Agreement to agree to adhere to the requirements of this Article.

## ARTICLE XXI: CIVIL RIGHTS

### 21.1 Non Discrimination.

The Recipient shall comply with and shall require its contractors and subcontractors to comply with all federal, state, and local laws, rules, regulations and ordinances relating to non-discrimination including, but not limited to, all requirements of Title VI of the Civil Rights Act of 1964, 42 USC 2000(d); Section 303 of the Age Discrimination Act of 1975, as amended, 42 USC 6101, Section 202 of the Americans with Disabilities Act of 1990, 42 USC 12101 *et seq.*, Federal Transit Law at 49 USC 5332, and US DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 CFR 21, and any implementing requirements the FTA may issue.

### 21.2 Equal Employment Opportunity Clauses.

(a) Federal Equal Employment Opportunity – The following requirements apply to the Project and the Recipient agrees to include these requirements in each contract and subcontract financed in whole or in part with federal assistance provided by FTA.

(1) Discrimination Prohibited – In accordance with 42 USC 2000(e), 49 USC 5332, the Recipient agrees to comply with any applicable Federal statutes, executive orders, regulations, and Federal policies including the U.S. Department of Labor regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR 60 *et seq.*, (which implement E.O. No. 11246, "Equal Employment Opportunity," as amended by E.O. No. 11375, "Amending E.O. No. 11246 relating to Equal Employment Opportunity,") that may in the future affect construction activities undertaken in the course of this Project. The Recipient agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to race, color, creed, sex, age 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. In addition, the Recipient agrees to comply with any implementing requirements FTA may issue.

(2) EEO Program Incorporated by Reference – If the Recipient is required to submit and obtain approval of its EEO program, that EEO program approved by the United States or State of Illinois government is incorporated by reference and made a part of this Agreement. Failure by the Recipient to carry out the terms of that EEO program shall be treated as a violation of this Agreement. Upon notification of its failure to carry out the approved EEO program, the RTA and the United States or State of Illinois government may impose such remedies as it considers appropriate, including termination of financial assistance, or other measures that may affect the Recipient's eligibility to obtain future financial assistance in transportation projects.

(3) Age – In accordance with 49 USC 5332, the Recipient agrees to refrain from discrimination against present and prospective employees for reasons of age. In addition, the Recipient agrees to comply with any implementing requirements FTA may issue.

(4) Disabilities – In accordance with 42 USC 12101, the Grantee agrees that it will comply with the requirements of 29 CFR 1630, pertaining to the employment of persons with disabilities. In addition, the Recipient agrees to comply with any implementing requirements FTA may issue.

(5) Sex – In accordance with Title IX of The Educational Amendments of 1972, as amended, 20 USC 1681 *et seq.*, and U.S. Department of Transportation regulations 45 CFR 86, the Recipient agrees to comply with prohibitions against discrimination on the basis of sex, and any federal requirements that may be promulgated.

(6) Language Proficiency – In accordance with Executive Order No. 13166, the Grantee agrees to comply with the applicable provisions of said Executive Order, “Improving Access to Services for Persons with Limited English Proficiency,” for improving access to services for persons with limited English proficiency, *see* 42 USC 2000d-1.

(7) Environmental Justice – The Recipient shall comply with the applicable policies of Executive Order No. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”, *see* 42 USC 4321 note.

(b) Sexual Harassment – The Recipient will have written sexual harassment policies that shall include, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment, under state law; (iii) a description of sexual harassment, utilizing examples; (iv) the Recipient’s internal complaint process including penalties; (v) the legal recourse, investigative, and complaint process available through the Department of Human Resources and the Human Rights Commission; (vi) directions on how to contact the Department and Commission; and (vii) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* A copy shall be provided to the RTA upon request.

(c) Illinois Human Rights Act - In the event of the Recipient’s non-compliance with the provisions of the Illinois Equal Employment Opportunity Clause, the Illinois Human Rights Act or the rules and regulations (the “Rules and Regulations”) of the Illinois Department of Human Rights (the “IDHR”), the Recipient may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and this Agreement may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this Agreement the Recipient agrees as follows:

(1) That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.

(2) That, if it hires additional employees in order to perform this Agreement or any portion thereof, it will determine the availability (in accordance with the IDHR Rules and Regulations) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.

(3) That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.

(4) That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Recipient's obligations under the Illinois Human Rights Act and the IDHR Rules and Regulations. If any such labor organization or representative fails or refuses to cooperate with the Recipient in its efforts to comply with such Act and Rules and Regulations, the Recipient will promptly so notify the IDHR and the contracting agency and will recruit employees for other sources when necessary to fulfill its obligations thereunder.

(5) That it will submit reports as required by the IDHR Rules and Regulations, furnish all relevant information as may from time to time be requested by the IDHR or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the IDHR Rules and Regulations.

(6) That it will permit access to all relevant books, records, accounts and work sites by personnel for the contracting agency and the IDHR for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the IDHR Rules and Regulations.

(7) That it will include verbatim or by reference the provisions of this section in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this Agreement, the Contractor will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency and the IDHR in the event any subcontractor fails to or refuses to comply therewith. In addition, the Contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

### 21.3 Disabilities.

The Recipient shall comply with and shall require its contractors and subcontractors to comply with all applicable federal and state requirements under the ADA and all applicable federal and state laws and regulations relating to procurement and access requirements in accommodating individuals with disabilities. The Recipient shall comply with, and agrees to include the following requirements

in each contract or subcontract, applicable state and federal requirements of the Americans with Disabilities Act of 1990 (ADA), 42 USC 12101, *et seq.*; 49 USC 5301(d); Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC 794; Architectural Barriers Act, as amended, 42 USC 4151, *et. seq.*; including any amendments to the aforementioned Acts; and the following regulations and amendments thereto:

(a) DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR 37; "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance," 49 CFR 27; "Americans with Disabilities Act (ADA) Accessibility Guidelines/Specifications for Transportation Vehicles," 36 CFR 1192 and 49 CFR 38;

(b) Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 CFR 35; and "Nondiscrimination on the Basis of a Disability by Public Accommodations and in Commercial Facilities," 28 CFR 36;

(c) Uniform Federal Accessibility Standards, Appendix A to 41 CFR 101-19.6 (Copies of the Uniform Federal Accessibility Standards are available from the Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410, telephone (202) 708-1112;

(d) U.S. EEOC regulations to implement the equal employment provisions of the ADA, 29 CFR 1630;

(e) Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 CFR 64, Subpart F;

(f) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 CFR 609;

(g) U.S. ATBCB regulations "Electronic and Information Technology Accessibility Standards", 36 CFR 1194; and

(h) Any implementing requirements FTA may issue.

#### 21.4 Disadvantaged Business Enterprises.

The following provisions shall apply to all Recipients as well as any subrecipients or subgrantees at any and all tiers who receive the funds provided in this Agreement in order to implement the Project.

(a) In accordance with 49 CFR Part 26.13(a), as amended, the Recipient assures the RTA that it shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement or the award and performance of any subcontract hereunder. Furthermore, the Recipient shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Recipient to carry out these requirements is a material breach of this Agreement, which may result in its termination or such other remedy as the RTA deems appropriate.

(b) Any Recipient with an FTA approved DBE program shall include the funds provided in this Agreement when submitting DBE-related data in reports required by the FTA pursuant to its approved program. The RTA shall receive copies of all such reports and will not be responsible for providing DBE-related data to the FTA regarding the funds provided in this Agreement.

(c) Any Recipient without an FTA approved DBE program shall adopt and abide by the RTA's DBE program, which is incorporated as though fully set forth herein. The Recipient must inform the RTA whether it intends to abide by its own, or the RTA's DBE program.

(d) The Recipient shall agree to include the language set forth in this Disadvantaged Business Enterprise Assurance in each subcontract it executes.

## **ARTICLE XXII: ENVIRONMENTAL COMPLIANCE**

The Recipient shall comply with and shall require its contractors and subcontractors to comply with all federal, state, and local laws, rules, regulations and ordinances imposing environmental, resource conservation, and energy requirements with respect to the Project. The Recipient expressly understands that the following items do not constitute the Recipient's entire obligation to meet federal requirements. The Recipient agrees to comply with the following requests:

22.1 Energy Conservation – The Recipient and its contractors at all tiers shall comply with applicable mandatory standards and policies relating to energy efficiency that are contained in applicable state energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 USC 6321 *et seq.*

22.2 Clean Fuels – To the extent applicable the Recipient and its contractors and subcontractors shall comply with the requirements of "Clean Fuels Formula Grant Program", 49 CFR 624 and any other applicable federal requirements, and 49 USC 5308.

## **ARTICLE XXIII: DRUG FREE WORKPLACE**

23.1 The Recipient certifies and agrees that it will provide a drug-free workplace as required by the Drug Free Workplace Act (30 ILCS 580/1 *et seq.*) and that it will comply with all provisions thereof. Further, the Recipient agrees to comply with the U.S. DOT Drug Free Workplace Act, and U.S. DOT regulations, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)", 49 CFR 32, and other U.S. DOT and FTA regulations and guidance pertaining to substance abuse (drugs and alcohol) that may be promulgated.

23.2 If applicable, the Recipient also agrees to comply with all aspects of the anti-drug program outlined in the "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" regulation, 49 CFR 655; "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" regulation, 49 CFR 40, and to require contractors and subcontractors, when applicable under 49 U.S.C. 5331 and 49 CFR 655, to do the same.

23.3 Confidentiality – Drugs or Alcohol Abuse. The Recipient shall comply with, and agrees to include the following requirements in each contract or subcontract, applicable state and federal requirements of confidentiality and other Civil Rights provisions of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 USC 1174 *et seq.* and the Public Health Service Act of 1912, 42 USC 290dd-2, including any amendments to the aforementioned Acts;

#### **ARTICLE XXIV: RESTRICTIONS ON LOBBYING**

24.1 (a) If this Agreement provides funding in whole or in part from federal funds for a Project(s), the Recipient agrees to comply with Section 319 of the 1990 Department of Interior and Related Agencies Appropriations Act, 31 USC 1352 relating to restrictions on influencing or attempting to influence federal officials in connection with grants, cooperative agreements, or contracts. By executing this Agreement, the Recipient certifies its compliance with this Act as specifically described in subparagraphs (b) and (c) below.

(b) The Recipient agrees that 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, an 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.

(c) The Recipient further agrees that if any funds other than federal appropriated funds have been paid or will be paid to 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 this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(d) The Recipient shall require that the language of this Article XXIV be included in the award documents for all third party contracts and that all such contractors shall certify and disclose accordingly.

#### **ARTICLE XXV PUBLIC RELATIONS**

25.1 The Recipient agrees to notify the RTA of the following: (i) upon receipt of any media, press, or mass information distribution system inquiry regarding the Project(s); (ii) upon receipt of any request for documents pursuant to the Freedom of Information Act (FOIA) pertaining to the Project(s); (iii) prior to issuing any press release or other media statement regarding the Project(s). The Recipient acknowledges that the duty to notify the RTA extends through Project(s) completion, and potentially beyond the term of this Agreement.

## **ARTICLE XXVI: SEVERABILITY**

26.1 If any provision of this Agreement is held invalid for any reason whatsoever, the remaining provisions shall not be affected thereby if such remainder would continue to conform to the purposes, terms, and requirements of applicable law.

## **ARTICLE XXVII: ASSIGNMENT AND AGREEMENT**

27.1 This Agreement shall not be assigned, transferred, conveyed, sublet, or otherwise disposed of by the Recipient without the prior written consent of the RTA.

## **ARTICLE XXVIII: AMENDMENT**

28.1 The Parties agree that no change of the aggregate amount of all Project Budgets or a modification in scope of this Agreement shall be of any force or effect unless such amendment is dated, reduced to writing, executed by both parties, and attached to and made a part of this Agreement. No work shall be commenced and no costs or obligations incurred in consequence of any amendment to this Agreement or any attachments hereto unless and until such amendment has been executed and made a part of this Agreement and Exhibit A, Scope of Services, and Exhibit B, Project Budget, for each Project as appropriate, has been amended to conform thereto.

## **ARTICLE XXIX: TITLES**

29.1 The Parties agree that the titles of the articles and paragraphs of this Agreement are inserted for convenience of identification only and shall not be considered for any other purpose.

## **ARTICLE XXX: OWNERSHIP OF DOCUMENTS/TITLE TO WORK**

30.1 All documents, data, and records produced by Recipient and its contractors in carrying out Recipient's obligations and services hereunder, without limitation and whether preliminary or final, as between the RTA and Recipient shall become and remain the property of the RTA. The RTA shall have the right to use all such documents, data, and records without restriction or limitation and without additional compensation to Recipient. All documents, data, and records utilized in performing research shall be available for examination by the RTA upon request. Upon completion of the services hereunder or at the termination of this Agreement, all such documents, data, and records shall, at the option of the RTA, be appropriately arranged, indexed, and delivered to the RTA by Recipient.

30.2 In accordance with 37 CFR 401, if any invention, improvement, or discovery of the Recipient or any of its subconsultants is conceived or first actually reduced to practice in the course of or under this Project, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Recipient agrees to notify the RTA, IDOT and FTA immediately and provide a detailed report. The rights and responsibilities of the Recipient, its subcontractors, the RTA, IDOT, and FTA, with respect to such invention, improvement,

or discovery will be determined in accordance with applicable state and federal laws, regulations, policies, and any waiver thereof. The Recipient agrees to insert the substance of the provisions of this clause in all subcontracts issued pursuant to this Agreement.

30.3 Rights in Data and Copyrights: The Recipient agrees as follows:

(a) The term “subject data” used in this section means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Agreement. The term includes graphic or pictorial delineation in media, such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms, such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term does not include financial reports, cost analyses, and similar information incidental to project administration.

(b) The following provisions apply to all subject data first produced in the performance of this Agreement:

(1) Except for its own internal use, the Recipient may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Recipient authorize others to do so, without the written consent of RTA, IDOT, or FTA, until such time as RTA, IDOT, or FTA, may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to agreements with academic institutions.

(2) As authorized by 49 CFR Part 18.34 and 49 CFR Part 19.36, RTA, IDOT and FTA reserve a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for “federal and state government purposes:”

(i) Any subject data developed under a grant, cooperative agreement, subgrant, subagreement, or third party contract, irrespective of whether or not a copyright has been obtained; and

(ii) Any rights of copyright to which a third party consultant purchases ownership with federal or state assistance.

(c) When the federal or state government provides assistance to a grantee for a Project involving planning, research, development, or a demonstration, it is generally FTA and IDOT’s intent to increase the body of mass transportation knowledge, rather than to limit the benefits of the Project to those parties that have participated therein. Therefore, unless FTA or IDOT determine otherwise, the recipient of IDOT or FTA assistance to support planning, research,



development, or a demonstration financed under the Acts, as amended, understands and agrees that, in addition to the rights set forth in section 29.3 (b) above, IDOT or FTA may make available to any government grantee, third party consultant, or third party subconsultant, either the federal or state government's license in the copyright to the subject data first produced under this Agreement. In the event that such a Project, which is the subject of this Agreement, is not completed for any reason whatsoever, all data developed under that Project shall become subject data as defined in section 29.3 (a) above, and shall be delivered as RTA may direct. This subsection, however, does not apply to adaptations of automatic data processing equipment or programs for the Recipient's use, which costs are financed in whole or in part with IDOT or FTA assistance for transportation capital projects.

(d) Unless prohibited by state law, the Recipient agrees to indemnify, save, and hold harmless the RTA, the State of Illinois and FTA, as their officers, agents, and employees acting within the scope of their official duties, against any liability, including costs and expenses, resulting from any violation by the Recipient of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under this Agreement. The Recipient shall not be required to indemnify the RTA, the State of Illinois and FTA for any such liability arising out of the wrongful acts of employees or agents of the RTA, the State of Illinois or FTA.

(e) Nothing contained in this section on rights in data shall imply a license to the RTA, IDOT or FTA under any patent to be construed as affecting the scope of any license or other right otherwise granted to the RTA, IDOT and FTA under any patent.

(f) The requirements of sub-sections (c), (d), and (e) of section 29.3 above, do not apply to material furnished to the Recipient by the RTA, IDOT and FTA and incorporated in the work carried out under this Agreement; provided that such incorporated material is identified by the Recipient at time of delivery of such work.

(g) The Recipient understands and agrees that data and information submitted to the RTA, IDOT or FTA may be required to be made available under the Freedom of Information Act or other state or federal statutes in accordance with 49 CFR 19.36, as revised.

#### **ARTICLE XXXI: ETHICS**

31.1 Bribery - Non-governmental Grantees and third-party contractors shall certify that they have not been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois or local government. They also certify that they have not admitted guilt of such conduct which is a matter of record, nor do they have an official, agent, or employee who has committed bribery or attempted bribery on the firm's behalf under the direction or authorization of one of the Grantee's responsible officials. They also certify that they have not been barred from contracting with a State or local governmental unit as a result of a violation of Title III, Part E, Article 33 of the Illinois Criminal Code.

#### **ARTICLE XXXII: PRIVACY**

32.1 Should the Grantee, or any of its third party contractors, or their employees, administer any system of records on behalf of the Federal or State Government, the Privacy Act of 1974, 5 U.S.C. 552 and 49 CFR 10, Subpart C, imposes information restrictions on the party managing the system of records.

### **ARTICLE XXXIII: DOCUMENTS FORMING THIS AGREEMENT**

33.1 The Parties agree that this constitutes the entire Agreement between the Parties hereto, that there are no agreements or understandings, implied or expressed, except as specifically set forth or incorporated by reference in the Agreement and that all prior arrangements and understandings in the connection are merged into and contained in this Agreement. The Parties hereto further agree that this Agreement consists of this "Technical Services Agreement," and:

- Exhibit A, Scope of Services
- Exhibit B, Project Budget
- Exhibit C, Certifications and Assurances
- Exhibit D, Code of Federal Regulations (CFR) – Title 2, Part 200
- Exhibit E, Program Management Plan (PMP)

### **ARTICLE XXXIV: SPECIAL CONDITIONS**

34.1 Annual Certification to Comply with OMB CFR – Title 2, Part 200. The Grantee shall annually file with the RTA, within 30 days after completion of the single audit (if applicable) or no more than nine months after the end of each Grantee's fiscal year (or portion thereof) during the term of this Agreement, an annual certification to comply with OMB CFR – Title 2, Part 200, in the form attached hereto as Exhibit D. The obligation to file such certification for a Grantee's fiscal year in which Grantee expends funds under this Agreement shall survive any expiration or termination of this Agreement.

34.2 Partners. Seven partner organizations are participating in the Ride DuPage to Work Program being funded by this Agreement: City of Naperville, Naperville Township, Lisle Township, Wheatland Township, Village of Glen Ellyn, City of Wheaton, and Milton Township (each a "Partner" and, collectively, the "Partners").

34.3 Withdrawal of a Partner. Notwithstanding anything to the contrary contained in this Agreement, should one of the Partners terminate its participation in the Ride DuPage to Work Program.

34.4 Reinstatement of a Partner. Notwithstanding anything to the contrary contained in this Agreement, should one of the Partners reinstate its participation in the Ride DuPage to Work Program, the resulting change in service shall not be deemed a change in scope requiring an amendment to this Agreement pursuant to Section 4.2. Grantee shall provide notice to the RTA should one of the Partners reinstate its participation in the Ride DuPage to Work Program.

34.5 Agreement between the Partners and Pace. The Partners propose to enter into an agreement with the Suburban Bus Division of the Regional Transportation Authority, d/b/a Pace ("Pace") for the provision of services in connection with the Ride DuPage to Work Program. RTA approves the Pace Agreement, and, notwithstanding anything to the contrary contained in this Agreement, Pace and the Partners may amend the Pace Agreement with respect to

operational matters, including, without limitation, service area, service hours, and cost without seeking the approval of the RTA. Grantee shall provide notice to the RTA of any amendment to the Pace Agreement.

34.6 Termination of the Pace Agreement. Notwithstanding anything to contrary contained in this Agreement, the Partners or Pace may terminate the Pace Agreement without the approval of the RTA. Grantee shall notify the RTA immediately upon termination of the Pace Agreement. Such termination of the Pace Agreement shall give each of the RTA and the Grantee.

34.7 Service Parameters. Participating local units of government and/or nongovernmental agencies may be modified by the grantee upon written notification to the RTA, provided such modifications do not impact project eligibility.

Only trips for Section 5310 eligible seniors and individuals with disabilities may be reimbursed under the terms of the agreement.

#### **ARTICLE XXXV: MISCELLANEOUS**

35.1 Notices. All notices, other communications and approvals required or permitted by this Agreement shall be in writing and shall be delivered, sent by certified or registered mail (return receipt requested and postage prepaid), addressed as follows:

- (a) in the case of the RTA:  
175 West Jackson Boulevard  
Suite 1650  
Chicago, Illinois 60604  
Attention: Heather Tabbert-Mullins
  
- (b) in the case of the Recipient:  
City of Naperville  
400 South Eagle Street,  
Naperville, IL 60540  
Attention: Jennifer Louden

or such other persons or addresses as either party may from time to time designate by notice to the other. All notices required hereunder shall be in writing and shall be deemed properly served if delivered in person or if sent by registered or certified mail, with postage prepaid and return receipt requested, to the addresses specified. All notices required hereunder shall be deemed received on the date of delivery, or attempted delivery, if delivered in person, or if mailed, on the date which is two (2) days after the date such notice is deposited in the mail.

35.2 Entire Agreement. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the parties.

35.3 Governing Law. This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws in force in the State of Illinois (excluding any conflict of laws rule or principle which might refer such interpretation to the laws of another jurisdiction).

**EXHIBIT A**

**SCOPE OF SERVICES  
for  
S5310-2015-02**

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**Applicant:** City of Naperville  
**RTA Project Number:** 2015-725-2820  
**Project Name:** Community Based Transportation to Work

**Project Description:**

The Ride DuPage to Work program provides seniors and individuals with disabilities with transportation to and from their place of employment.

This project allows for increased employment opportunities by providing transportation to employment in and outside of their own town during times that may extend beyond traditional working hours.

**Service Parameters:**

Trips for this project currently originate or terminate within the City of Naperville, Naperville Township, Lisle Township, Wheatland Township, Village of Glen Ellyn, City of Wheaton, and Milton Township.

The service operates 24 hours per day, 7 days per week and 365 days a year.

Any expenses attributable to contracts executed prior to this agreement are not eligible for reimbursement.

Only trips for Section 5310 eligible seniors and individuals with disabilities may be reimbursed under the terms of the agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

**RECIPIENT: CITY OF NAPERVILLE**

Attest: \_\_\_\_\_

By: \_\_\_\_\_  
DOUGLAS A. KRIEGER

Date: \_\_\_\_\_

Title: \_\_\_\_\_  
CITY MANAGER

**REGIONAL TRANSPORTATION AUTHORITY**

Attest: \_\_\_\_\_

By: \_\_\_\_\_  
LEANNE P. REDDEN *LR*

Date: \_\_\_\_\_

Title: \_\_\_\_\_  
EXECUTIVE DIRECTOR

**EXHIBIT B**  
**PROJECT BUDGET**  
for  
**S5310-2015-02**

	<b>Budget Number:</b>	0	<b>Date:</b>	
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**Applicant:** City of Naperville

**Total Project Budget:** \$744,052.00

<b>RTA Project Number/ Title:</b>	2015-725-2820	<u>Community Based Transportation to Work</u>
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	Project Budget	Inkind	Expected Project Funds	
			Cash	Share
<b>RTA</b>	<b>\$372,026.00</b>	\$0.00	\$0.00	50.00%
<b>Local</b>	<b>\$372,026.00</b>	\$0.00	\$0.00	50.00%
<b>Other</b>	<b>\$0.00</b>	\$0.00	\$0.00	0.00%
<b>Total:</b>	<b>\$744,052.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>100.00%</b>

## **EXHIBIT C**

### **INSTRUCTIONS FOR CERTIFICATIONS AND ASSURANCES**

In accordance with 49 U.S.C. 5323(n), the following certifications and assurances have been compiled to cover all grants and agreements that include Federal Transit Administration ("FTA"), Illinois Department of Transportation ("IDOT") and/or Regional Transportation Authority ("RTA") assistance programs. Twenty three (23) Categories of certifications and assurances are listed below. Category 01 applies to all Applicants or Contractors. Category 02 applies to all applications exceeding \$100,000. Categories 03 through 23 will apply to and be required for some, but not all, Applicants and projects and will be indicated with an "X" as needed.

The RTA and the Applicant understand and agree that not every provision of these certifications and assurances will apply to every Applicant or every project for which the RTA provides Federal financial assistance through a grant agreement, cooperative agreement or contract. The type of project and the section of the statute authorizing Federal financial assistance for the project will determine which provisions apply. The terms of these certifications and assurances reflect applicable requirements of the FTA's enabling legislation currently in effect.

The Applicant also understands and agrees that these Certifications and Assurances are pre award requirements, generally required by Federal law or regulation and do not include all Federal requirements that may apply to the Applicant or its project. A comprehensive list of those Federal laws, regulations, and directives is contained in the current FTA Master Agreement MA(23) for Federal Fiscal Year 2017 (the "Master Agreement") at the FTA website <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/sample-fta-agreements>.

Because many requirements of these certifications and assurances will require the compliance of the subrecipient of the Applicant, the RTA and the FTA strongly recommend that each Applicant that will be implementing projects through one or more subrecipients of other third-party participant, secure sufficient documentation from each subrecipient and other third-party participant to assure compliance, not only with these certifications and assurances, but also with the terms of the grant agreement, cooperative agreement or contract for the project, and the applicable Master Agreement for its project, if applicable, incorporated therein by reference. Each Applicant is ultimately responsible for compliance with the provisions of these certifications and assurances applicable to itself or its project irrespective of participation in the project by any subrecipient or other third-party participant.

The Applicant understands and agrees that when it receives RTA assistance on behalf of a consortium, joint venture, partnership or team, each member of that consortium, joint venture, partnership, or team is responsible for compliance with the certifications and assurances the Applicant selects.

Accompanying the certifications and assurances is a signature page, which allows you to certify compliance with all applicable certifications and assurances. The signature page is to be signed by the Applicant's authorized representative.

## CERTIFICATIONS AND ASSURANCES

Name of the Applicant: City of Naperville

Name and Relationship of the Authorized Representative: \_\_\_\_\_

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind the Grantee's compliance. Thus, the Applicant agrees to comply with all local, state and federal laws, regulations, and requirements, follow applicable federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in federal fiscal year 2017, irrespective of whether the individual that acted on his or her Grantee's behalf continues to represent it.

The RTA intends that the Certifications and Assurances selected should apply to each Award for which it now seeks, or may later seek federal assistance to be awarded by FTA during federal fiscal year 2017.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, IDOT or RTA and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. § 1001 apply to any certification, assurance, or submission made in connection with a federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute.

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

Signature \_\_\_\_\_ Date: \_\_\_\_\_

Name \_\_\_\_\_  
Authorized Representative of Applicant



**AFFIRMATION OF RECIPIENT'S ATTORNEY**

Name of the Applicant: City of Naperville

As the undersigned Attorney for the above named Applicant, I hereby affirm to the Applicant that it has authority under state, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the following pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on the Applicant.

I further affirm to the Applicant that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of the project. Furthermore, If I become aware of circumstances that change the accuracy of the foregoing statements, I will notify the Applicant, the RTA and, if applicable, IDOT and the FTA.

Signature \_\_\_\_\_ Date: \_\_\_\_\_

Name \_\_\_\_\_  
Attorney for Applicant

Name of Applicant: City of Naperville

The Applicant agrees to comply with applicable provisions of the Categories selected:

<u>Category</u>	<u>Description</u>	
01.	Required Certifications and Assurances for Each Applicant.	<u>X</u>
02.	Lobbying.	<u>X</u>
03.	Procurement and Procurement Systems.	<u>X</u>
04.	Private Sector Protections.	<u>      </u>
05.	Rolling Stock Reviews and Bus Testing.	<u>      </u>
06.	Demand Responsive Service.	<u>X</u>
07.	Intelligent Transportation Systems.	<u>      </u>
08.	Interest and Financing Costs and Acquisition of Capital Assets by Lease.	<u>      </u>
09.	Transit Asset Management Plan, Public Transportation Safety Program, and State Safety Oversight Requirements.	<u>      </u>
10.	Alcohol and Controlled Substances Testing.	<u>X</u>
11.	Fixed Guideway Capital Investment Grants Program (New Starts, Small Starts, and Core Capacity Improvement).	<u>      </u>
12.	State of Good Repair Program.	<u>      </u>
13.	Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs.	<u>      </u>
14.	Urbanized Area Formula Grants Programs and Passenger Ferry Grant Program.	<u>      </u>
15.	Enhanced Mobility of Seniors and Individuals with Disabilities Programs.	<u>X</u>
16.	Rural Areas and Appalachian Development Programs.	<u>      </u>
17.	Tribal Transit Programs (Public Transportation on Indian Reservations Programs).	<u>      </u>
18.	State Safety Oversight Grant Program.	<u>      </u>
19.	Public Transportation Emergency Relief Program.	<u>      </u>
20.	Expedited Project Delivery Pilot Program.	<u>      </u>
21.	Infrastructure Finance Programs.	<u>      </u>
22.	Paul S. Sarbanes Transit in Parks Program.	<u>      </u>
23.	Construction Hiring Preferences.	<u>      </u>

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

### CATEGORY 01. REQUIRED CERTIFICATIONS AND ASSURANCES FOR EACH APPLICANT<sup>1</sup>.

*Any provision of the Certifications and Assurances in Category 01 that does not apply will not be enforced.*

#### **1.A. Certifications and Assurances of Authority of the Applicant and Its Authorized Representative.**

You certify and affirm that in signing these Certifications, Assurances, and Agreements, both you, as your Applicant's Authorized Representative, and your Applicant's attorney who is authorized to represent your Applicant in legal matters, may undertake the following activities on your Applicant's behalf, in compliance with applicable state, local, or Indian tribal laws, regulations, and requirements and your Applicant's by-laws or internal rules:

1. Execute and file its application for federal assistance,
2. Execute and file its Certifications, Assurances, Charter Service Agreement, and School Bus Agreement, as applicable, binding its compliance,
3. Execute its Grant Agreement, Cooperative Agreement, Loan, Loan Guarantee, Line of Credit, Master Credit Agreement, or State Infrastructure Bank (SIB) Cooperative Agreement for which the Applicant is seeking federal assistance from FTA,
4. Comply with applicable federal laws, regulations, and requirements, and
5. Follow applicable federal guidance.

#### **1.B. Standard Assurances.**

On behalf of your Applicant, you assure that it understands and agrees to the following:

1. It will comply with all applicable federal laws, regulations, and requirements in implementing its Award.
2. It is under a continuing obligation to comply with the terms and conditions of its Grant Agreement or Cooperative Agreement with FTA for each Award, including the FTA Master Agreement and other documents incorporated by reference and made part of its Grant Agreement or Cooperative Agreement, or latest amendment thereto.
3. It recognizes that federal laws, regulations, and requirements may be amended from time to time and those amendments may affect the implementation of its Award.
4. It understands that Presidential executive orders and federal guidance, including federal policies and program guidance, may be issued concerning matters affecting it or its Award.
5. It agrees that the most recent federal laws, regulations, requirements, and guidance will apply to its Award, except as FTA determines otherwise in writing.
6. Except as FTA determines otherwise in writing, it agrees that requirements for FTA programs may vary depending on the fiscal year for which the federal assistance for those programs was appropriated or made available.

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<sup>1</sup> The term "Applicant" used throughout these Certifications and Assurances shall mean the Regional Transportation Authority's Contractor or Consultant.

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

### 1.C. Intergovernmental Review Assurance.

*(This assurance in this Category 01.C does not apply to an Indian tribe, an Indian organization, or an Indian tribal organization that applies for federal assistance made available under 49 U.S.C. § 5311(c)(1), which authorizes FTA's Tribal Transit Programs.)*

As required by U.S. Department of Transportation (U.S. DOT) regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17, on behalf of your Applicant, you assure that it has submitted or will submit each application for federal assistance to the appropriate state and local agencies for intergovernmental review.

### 1.D. Nondiscrimination Assurance.

On behalf of your Applicant, you assure that:

1. It will comply with the following laws, regulations, and requirements so that no person in the United States will be denied the benefits of, or otherwise be subjected to discrimination in, any U.S. DOT or FTA assisted program or activity (particularly in the level and quality of transportation services and transportation-related benefits) on the basis of race, color, national origin, religion, sex, disability, or age including:
  - a. Federal transit laws, specifically 49 U.S.C. § 5332 (prohibiting discrimination on the basis of race, color, religion, national origin, sex (including gender identity), disability, age, employment, or business opportunity),
  - b. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d,
  - c. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* (prohibiting discrimination on the basis of race, color, religion, sex, (including gender identity and sexual orientation) or national origin),
  - d. 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,
  - e. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 *et seq.*,
  - f. U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25,
  - g. The Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, *et seq.*,
  - h. The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*,
  - i. 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,
  - j. U.S. DOT regulations, specifically 49 CFR parts 27, 37, 38, and 39, and
  - k. Any other applicable federal statutes that may be signed into law, federal regulations that may be issued, or federal requirements that may be imposed.
2. It will comply with federal guidance implementing federal nondiscrimination laws, regulations, or requirements, except as FTA determines otherwise in writing.
3. As required by 49 CFR § 21.7:

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

- a. It will comply with 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 in the manner that:
  - (1) It implements its Award,
  - (2) It undertakes property acquisitions, and
  - (3) It operates all parts of its facilities, as well as its facilities operated in connection with its Award.
- b. This assurance applies to its Award and to all parts of its facilities, as well as its facilities used to implement its Award. It will take any actions to carry out this assurance, including the following:
  - (1) Notifying the public that discrimination complaints about transportation-related services or benefits may be filed with U.S. DOT or FTA Headquarters Office of Civil Rights, and
  - (2) Submitting information about its compliance with these provisions to U.S. DOT or FTA upon their request.
- c. If it transfers U.S. DOT or FTA assisted real property, structures, or improvements to another party, any deeds and instruments recording that transfer will contain a covenant running with the land assuring nondiscrimination:
  - (1) While the property is used for the purpose that the federal assistance is extended, or
  - (2) While the property is used for another purpose involving the provision of similar services or benefits.
- d. The United States has a right to seek judicial enforcement of any matter arising under:
  - (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
  - (2) U.S. DOT regulations, 49 CFR part 21, or
  - (3) This assurance.
- e. It will make any changes in its Title VI implementing procedures, as U.S. DOT or FTA may request, to comply with:
  - (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
  - (2) U.S. DOT regulations, 49 CFR part 21, and
  - (3) Federal transit law, 49 U.S.C. § 5332.
- f. It will comply with applicable federal guidance issued to implement federal nondiscrimination requirements, except as FTA determines otherwise in writing.
- g. It will extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each Third Party Participant, including any:
  - (1) Subrecipient,
  - (2) Transferee,
  - (3) Third Party Contractor or Subcontractor at any tier,
  - (4) Successor in Interest,
  - (5) Lessee, or
  - (6) Other Participant in its Award, except FTA and the Applicant (and later, the Recipient).
- h. It will include adequate provisions to extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each third party agreement, including each:
  - (1) Subagreement at any tier,
  - (2) Property transfer agreement,

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

- (3) Third party contract or subcontract at any tier,
- (4) Lease, or
- (5) Participation agreement.
- i. The assurances you have made on your Applicant's behalf remain in effect as long as FTA determines appropriate, including, for example, as long as:
  - (1) Federal assistance is provided for its Award,
  - (2) Its property acquired or improved with federal assistance is used for a purpose for which the federal assistance is extended, or for a purpose involving similar services or benefits,
  - (3) It retains ownership or possession of its property acquired or improved with federal assistance provided for its Award, or
  - (4) FTA may otherwise determine in writing.
4. As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR part 27, specifically 49 CFR § 27.9, and consistent with 49 U.S.C. § 5332, you assure that:
  - a. It will comply with the following prohibitions against discrimination on the basis of disability listed below in subsection 4.b of this Category 01.D Assurance, of which compliance is a condition of approval or extension of any FTA assistance awarded to:
    - (1) Construct any facility,
    - (2) Obtain any rolling stock or other equipment,
    - (3) Undertake studies,
    - (4) Conduct research, or
    - (5) Participate in any benefit or obtain any benefit from any FTA administered program.
  - b. In any program or activity receiving or benefiting from federal assistance that U.S. DOT administers, no qualified individual with a disability will, because of his or her disability, be:
    - (1) Excluded from participation,
    - (2) Denied benefits, or
    - (3) Otherwise subjected to discrimination.

### **1.E. Suspension and Debarment, Tax Liability, and Felony Convictions Certifications.**

#### **01.E.1 Suspension and Debarment.**

On behalf of your Applicant, you certify that:

- a. 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.
- b. To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
  - (1) Are eligible to participate in covered transactions of any federal department or agency and are not presently:
    - (a) Debarred,
    - (b) Suspended,

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

- (c) Proposed for debarment,
  - (d) Declared ineligible,
  - (e) Voluntarily excluded, or
  - (f) Disqualified.
- (2) Within a three-year period preceding its latest application or proposal, its management has not been convicted of or had a civil judgment rendered against any of them for:
- (a) 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,
  - (b) Violation of any federal or state antitrust statute, or
  - (c) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property.
- (3) 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.
- (4) 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.
- (5) If, at a later time, it receives any information that contradicts the preceding statements of subsections 2.a – 2.d of this Category 01.E Certification, it will promptly provide that information to FTA.
- (6) It will treat each lower tier contract or subcontract under its Award as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
- (a) Equals or exceeds \$25,000,
  - (b) Is for audit services, or
  - (c) Requires the consent of a federal official.
- (7) It will require that each covered lower tier contractor and subcontractor:
- (a) Comply and facilitate compliance with the federal requirements of 2 CFR parts 180 and 1200, and
  - (b) Assure that each lower tier participant in its Award is not presently declared by any federal department or agency to be:
    - 1 Debarred from participation in any federally assisted Award,
    - 2 Suspended from participation in any federally assisted Award,
    - 3 Proposed for debarment from participation in any federally assisted Award,
    - 4 Declared ineligible to participate in any federally assisted Award,
    - 5 Voluntarily excluded from participation in any federally assisted Award, or
    - 6 Disqualified from participation in any federally assisted Award.
- c. It will provide a written explanation 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 Category 01.E.1 Certification.

### 1.E.2. Tax Liability.

If your Applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, on behalf of your Applicant, you certify that:

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

- a. Your Applicant and its prospective Subrecipients have no 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.
- b. Your Applicant and its Subrecipients will follow applicable U.S. DOT guidance when issued.

### 1.E.3. Felony Convictions.

If your Applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, on behalf of your Applicant, you certify that:

- a. Your Applicant and its prospective Subrecipients have not been convicted of a felony criminal violation under any federal law within the preceding 24 months.
- b. Your Applicant and its Subrecipients will follow applicable U.S. DOT guidance when it is issued.

### 1.F. U.S. OMB Assurances in SF-424B and SF-424D.

*The assurances in this Category 01.F are consistent with the U.S. OMB assurances required in the U.S. OMB SF-424B and SF-424D, and updated as necessary to reflect changes in federal laws, regulations, and requirements.*

1. *Administrative Activities.* On behalf of your Applicant, you assure that:
  - a. For any application it submits for federal assistance, it has adequate resources to plan, manage, and properly complete the tasks to implement its Award, including:
    - (1) The legal authority to apply for federal assistance,
    - (2) The institutional capability,
    - (3) The managerial capability, and
    - (4) The financial capability (including funds sufficient to pay the non-federal share of the cost of incurred under its Award).
  - b. As required, it will give access and the right to examine materials related to its Award to the following entities or individuals, including, but not limited to:
    - (1) FTA,
    - (2) The Comptroller General of the United States, and
    - (3) The State, through an appropriate authorized representative.
  - c. It will establish a proper accounting system in accordance with generally accepted accounting standards or FTA guidance.
  - d. It will establish safeguards to prohibit employees from using their positions for a purpose that results in:
    - (1) A personal or organizational conflict of interest or personal gain, or
    - (2) An appearance of a personal or organizational conflict of interest or personal gain.
2. *Specifics of the Award.* On behalf of your Applicant, you assure that:
  - a. It will begin and complete work within the period of performance that applies following receipt of an FTA Award.
  - b. For FTA assisted construction Awards:



## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

- (1) It will comply with FTA provisions concerning the drafting, review, and approval of construction plans and specifications,
  - (2) It will provide and maintain competent and adequate engineering supervision at the construction site to assure that the completed work conforms to the approved plans and specifications,
  - (3) It will include a covenant to assure nondiscrimination during the useful life of the real property financed under its Award in its title to that real property,
  - (4) To the extent FTA requires, it will record the federal interest in the title to FTA assisted real property or interests in real property, and
  - (5) It will not alter the site of the FTA assisted construction or facilities without permission or instructions from FTA by:
    - (a) Disposing of the underlying real property or other interest in the site and facilities,
    - (b) Modifying the use of the underlying real property or other interest in the site and facilities, or
    - (c) Changing the terms of the underlying real property title or other interest in the site and facilities.
- c. It will furnish progress reports and other information as FTA or the state may require.
3. *Statutory and Regulatory Requirements.* On behalf of your Applicant, you assure that:
- a. Your Applicant will comply with all federal laws, regulations, and requirements relating to nondiscrimination that apply, including, but not limited to:
    - (1) The prohibitions against discrimination on the basis of race, color, or national origin, as provided in Title VI of the Civil Rights Act, 42 U.S.C. § 2000d.
    - (2) The prohibitions against discrimination on the basis of sex, as provided in:
      - (a) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 – 1683, and 1685 – 1687, and
      - (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR part 25.
    - (3) The prohibitions against discrimination on the basis of age in federally assisted programs, as provided in the Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 – 6107.
    - (4) The prohibitions against discrimination on the basis of disability in federally assisted programs, as provided in section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794.
    - (5) The prohibitions against discrimination on the basis of disability, as provided in the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 .
    - (6) The prohibitions against discrimination in the sale, rental, or financing of housing, as provided in Title VIII of the Civil Rights Act, 42 U.S.C. § 3601 *et seq.*
    - (7) The prohibitions against discrimination on the basis of drug abuse, as provided in the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 *et seq.*
    - (8) The prohibitions against discrimination on the basis of alcohol abuse, as provided in the Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, as amended, 42 U.S.C. § 4541 *et seq.*

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- (9) The confidentiality requirements for records of alcohol and drug abuse patients, as provided in the Public Health Service Act, as amended, 42 U.S.C. § 290dd – 290dd-2.
  - (10) The prohibitions against discrimination in employment as provided in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*,
  - (11) The nondiscrimination provisions of any other statute(s) that may apply to its Award.
- b. As provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Relocation Act), 42 U.S.C. § 4601 *et seq.*, and 49 U.S.C. § 5323(b), regardless of whether federal assistance has been provided for any real property acquired or improved for purposes of its Award:
- (1) It will provide for fair and equitable treatment of any displaced persons or any persons whose property is acquired or improved as a result of federally assisted programs.
  - (2) It has the necessary legal authority under state and local laws, regulations, and requirements to comply with:
    - (a) The Uniform Relocation Act, 42 U.S.C. § 4601 *et seq.*, as specified by 42 U.S.C. §§ 4630 and 4655, and
    - (b) U.S. DOT regulations, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,” 49 CFR part 24, specifically 49 CFR § 24.4.
  - (3) It has complied with or will comply with the Uniform Relocation Act and implementing U.S. DOT regulations because:
    - (a) It will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24.
    - (b) As provided by 42 U.S.C. §§ 4622, 4623, and 4624, and 49 CFR part 24, if its Award results in displacement, it will provide fair and reasonable relocation payments and assistance to:
      - 1 Displaced families or individuals, and
      - 2 Displaced corporations, associations, or partnerships.
    - (c) As provided by 42 U.S.C. § 4625 and 49 CFR part 24, it will provide relocation assistance programs offering the services described in the U.S. DOT regulations to such:
      - 1 Displaced families and individuals, and
      - 2 Displaced corporations, associations, or partnerships.
    - (d) As provided by 42 U.S.C. § 4625(c)(3), within a reasonable time before displacement, it will make available comparable replacement dwellings to families and individuals.
    - (e) It will do the following:
      - 1 Carry out the relocation process to provide displaced persons with uniform and consistent services, and
      - 2 Make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin.
    - (f) It will be guided by the real property acquisition policies of 42 U.S.C. §§ 4651 and 4652.

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- (g) It will pay or reimburse property owners for their necessary expenses as specified in 42 U.S.C. §§ 4653 and 4654, understanding that FTA will provide federal assistance for its eligible costs of providing payments for those expenses, as required by 42 U.S.C. § 4631.
  - (h) It will execute the necessary implementing amendments to FTA assisted third party contracts and subagreements.
  - (i) It will execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement these assurances.
  - (j) It will incorporate these assurances by reference into and make them a part of any third party contract or subagreement, or any amendments thereto, related to its Award that involves relocation or land acquisition.
  - (k) It will provide in any affected document that these relocation and land acquisition provisions must supersede any conflicting provisions.
- c. It will comply with the Lead-Based Paint Poisoning Prevention Act, specifically 42 U.S.C. § 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures.
- d. It will, to the extent applicable, comply with the protections for human subjects involved in research, development, and related activities supported by federal assistance of:
- (1) The National Research Act, as amended, 42 U.S.C. § 289 *et seq.*, and
  - (2) U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11.
- e. It will, to the extent applicable, comply with the labor standards and protections for federally assisted Awards of:
- (1) The Davis-Bacon Act, as amended, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147,
  - (2) Sections 1 and 2 of the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. § 874, and 40 U.S.C. § 3145, respectively, and
  - (3) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3701 *et seq.*
- f. It will comply with any applicable environmental standards prescribed to implement federal laws and executive orders, including, but not limited to:
- (a) Complying with the institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 – 4335 and following Executive Order No. 11514, as amended, 42 U.S.C. § 4321 note.
  - (2) Following the notification of violating facilities provisions of Executive Order No. 11738, 42 U.S.C. § 7606 note.
  - (3) Following the protection of wetlands provisions of Executive Order No. 11990, 42 U.S.C. § 4321 note.
  - (4) Following the evaluation of flood hazards in the floodplains provisions of Executive Order No. 11988, May 24, 1977, 42 U.S.C. § 4321 note, and Executive Order No. 13690 "Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input, January 30, 2015.
  - (5) Complying with the assurance of consistency with the approved state management program developed pursuant to the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. §§ 1451 – 1465.

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- (6) Complying with the Conformity of Federal Actions to State (Clean Air) Implementation Plans requirements under section 176(c) of the Clean Air Act of 1970, as amended, 42 U.S.C. §§ 7401 – 7671q.
- (7) Complying with protections for underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. § 300f – 300j-6.
- (8) Complying with the protections for endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 – 1544.
- (9) Complying with the environmental protections for federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, state, or local significance or any land from a historic site of national, state, or local significance to be used in a transportation Award, as required by 49 U.S.C. § 303 (also known as “Section 4f”).
- (10) Complying with the protections for national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. §§ 1271 – 1287.
- (11) Complying with and facilitating compliance with:
  - (a) Section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. § 300108,
  - (b) The Archaeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501 *et seq.*, and
  - (c) Executive Order No. 11593 (identification and protection of historic properties), 54 U.S.C. § 300101.
- g. To the extent applicable, it will comply with the following federal requirements for the care, handling, and treatment of warm-blooded animals held or used for research, teaching, or other activities supported with federal assistance:
  - (1) The Animal Welfare Act, as amended, 7 U.S.C. § 2131 *et seq.*, and
  - (2) U.S. Department of Agriculture regulations, “Animal Welfare,” 9 CFR subchapter A, parts 1, 2, 3, and 4.
- h. To the extent applicable, it will obtain a certificate of compliance with the seismic design and construction requirements of U.S. DOT regulations, “Seismic Safety,” 49 CFR part 41, specifically 49 CFR § 41.117(d), before accepting delivery of any FTA assisted buildings.
- i. It will comply with and assure that each of its Subrecipients located in special flood hazard areas will comply with section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. § 4012a(a), by:
  - (1) Participating in the federal flood insurance program, and
  - (2) Purchasing flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- j. It will comply with:
  - (1) The Hatch Act, 5 U.S.C. §§ 1501 – 1508, 7324 – 7326, which limits the political activities of state and local agencies and their officers and employees whose primary employment activities are financed in whole or part with federal assistance, including a federal loan, grant agreement, or cooperative agreement, and
  - (2) 49 U.S.C. § 5323(l)(2) and 23 U.S.C. § 142(g), which provide an exception from Hatch Act restrictions for a nonsupervisory employee of a public transportation

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system (or of any other agency or entity performing related functions) receiving federal assistance appropriated or made available under 49 U.S.C. chapter 53 and 23 U.S.C. § 142(a)(2) to whom the Hatch Act does not otherwise apply.

- k. It will perform the financial and compliance audits as required by the:
  - (1) Single Audit Act Amendments of 1996, 31 U.S.C. § 7501 *et seq.*,
  - (2) 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
  - (3) Most recent applicable U.S. OMB Compliance Supplement, 2 CFR part 200, appendix XI (previously known as the U.S. OMB Circular A-133 Compliance Supplement).
- l. It will comply with all other federal laws, regulations, and requirements that apply.
- m. It will follow federal guidance governing it and its Award, except as FTA has expressly approved otherwise in writing.

### CATEGORY 02. LOBBYING.

*Any provision of the Certifications in Category 02 that does not apply will not be enforced.*

On behalf of your Applicant, you certify that:

- 1. As required by 31 U.S.C. § 1352 and U.S. DOT regulations, "New Restrictions on Lobbying," specifically 49 CFR § 20.110:
  - a. The lobbying restrictions of this Certification apply to its requests:
    - (1) For \$100,000 or more in federal assistance for a grant or cooperative agreement, and
    - (2) For \$150,000 or more in federal assistance for a loan, line of credit, loan guarantee, or loan insurance, and
  - b. Your Certification on your Applicant's behalf applies to the lobbying activities of:
    - (1) The Applicant,
    - (2) Its Principals, and
    - (3) Its Subrecipients at the first tier.
- 2. To the best of your knowledge and belief:
  - a. No federal appropriated funds have been or will be paid by your Applicant or on its behalf to any person to influence or attempt to influence:
    - (1) An officer or employee of any federal agency regarding the award of a:
      - (a) Federal grant or cooperative agreement, or
      - (b) Federal loan, line of credit, loan guarantee, or loan insurance, or
    - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:

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- (a) Federal grant or cooperative agreement, or
  - (b) Federal loan, line of credit, loan guarantee, or loan insurance.
- b. Your Applicant will submit a complete OMB Standard Form LLL (Rev. 7-97), "Disclosure of Lobbying Activities," consistent with the instructions on that form, if any funds other than federal appropriated funds have been or will be paid to any person to influence or attempt to influence:
  - (1) An officer or employee of any federal agency regarding the award of a:
    - (a) Federal grant or cooperative agreement, or
    - (b) Federal loan, line of credit, loan guarantee, or loan insurance, or
  - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
    - (a) Federal grant or cooperative agreement, or
    - (b) Federal loan, line of credit, loan guarantee, or loan insurance.
- c. Your Applicant will include the language of this Certification in its Award documents under a federal grant, cooperative agreement, loan, line of credit, or loan insurance including, but not limited to:
  - (1) Each third party contract,
  - (2) Each third party subcontract,
  - (3) Each subagreement, and
  - (4) Each third party agreement.
- 3. Your Applicant understands that:
  - a. This Certification is a material representation of fact that the Federal Government relies on, and
  - b. It must submit this Certification before the Federal Government may award federal assistance for a transaction covered by 31 U.S.C. § 1352, including a:
    - (1) Federal grant or cooperative agreement, or
    - (2) Federal loan, line of credit, loan guarantee, or loan insurance.
- 4. Your Applicant understands that any person who does not file a required Certification will incur a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### **CATEGORY 03. PROCUREMENT AND PROCUREMENT SYSTEMS.**

*Any provision of the Certification in Category 03 that does not apply will not be enforced.*

On behalf of your Applicant, you certify that its procurements and its procurement system will comply with all federal laws, regulations, and requirements in accordance with applicable federal guidance, except as FTA has approved otherwise in writing.

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### CATEGORY 04. PRIVATE SECTOR PROTECTIONS.

*Any provision of the Assurances and Agreements in Category 04 that does not apply will not be enforced.*

#### **4.A. Private Property Protections.**

*If your Applicant is a state, local government, or Indian tribal government and seeks federal assistance from FTA to acquire the property of a private transit operator or operate public transportation in competition with or in addition to a public transportation operator, the Private Property Protections Assurances in Category 04.A apply to your Applicant, except as FTA determines otherwise in writing.*

To facilitate FTA's ability to make the findings required by 49 U.S.C. § 5323(a)(1), on behalf of your Applicant, you assure that:

1. Your Applicant has or will have:
  - a. Determined that the federal assistance it has requested is essential to carrying out its Program of Projects as required by 49 U.S.C. §§ 5303, 5304, and 5306,
  - b. Provided for the participation of private companies engaged in public transportation to the maximum extent feasible, and
  - c. Paid just compensation under state or local laws to the company for any franchise or property acquired.
2. Your Applicant has completed the actions described in the preceding section 1 of this Category 04.A Certification before:
  - a. It acquires the property or an interest in the property of a private provider of public transportation, or
  - b. It operates public transportation equipment or facilities:
    - (1) In competition with transportation service provided by an existing public transportation operator, or
    - (2) In addition to transportation service provided by an existing public transportation operator.

#### **4.B. Charter Service Agreement.**

*If your Applicant seeks federal assistance from FTA to acquire or operate transit facilities or equipment, the Charter Service Agreement in Category 04.B applies to your Applicant, except as FTA determines otherwise in writing.*

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To comply with 49 U.S.C. § 5323(d) and (g) and FTA regulations, "Charter Service, 49 CFR part 604, specifically 49 CFR § 604.4, on behalf of your Applicant, you are entering into the following Charter Service Agreement:

1. FTA's "Charter Service" regulations apply as follows:
  - a. FTA's Charter Service regulations restrict transportation by charter service using facilities and equipment acquired or improved under an Award derived from:
    - (1) Federal transit laws, 49 U.S.C. chapter 53, (2) 23 U.S.C. §§ 133 or 142, or
    - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
  - b. FTA's charter service restrictions extend to:
    - (1) Your Applicant, when it receives federal assistance appropriated or made available for:
      - (a) Federal transit laws, 49 U.S.C. chapter 53, (b) 23 U.S.C. §§ 133 or 142, or
      - (c) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
    - (2) Any Third Party Participant that receives federal assistance derived from:
      - (a) Federal transit laws, 49 U.S.C. chapter 53, (b) 23 U.S.C. §§ 133 or 142, or
      - (c) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
  - c. A Third Party Participant includes any:
    - (1) Subrecipient at any tier,
    - (2) Lessee,
    - (3) Third Party Contractor or Subcontractor at any tier, and
    - (4) Other Third Party Participant in its Award.
  - d. You and your Applicant agree that neither it nor any governmental authority or publicly owned operator that receives federal public transportation assistance appropriated or made available for its Award will engage in charter service operations, except as permitted under:
    - (1) Federal transit laws, specifically 49 U.S.C. § 5323(d) and (g),
    - (2) FTA regulations, "Charter Service," 49 CFR part 604, to the extent consistent with 49 U.S.C. § 5323(d) and (g),
    - (3) Any other federal Charter Service regulations, or
    - (4) Federal guidance, except as FTA determines otherwise in writing.
  - e. You and your Applicant agree that the latest Charter Service Agreement selected in its latest annual Certifications and Assurances is incorporated by reference and made part of the Underlying Agreement accompanying its Award of federal assistance from FTA.
  - f. You and your Applicant agree that:
    - (1) FTA may require corrective measures or impose remedies on it or any governmental authority or publicly owned operator that receives federal assistance from FTA that has demonstrated a pattern of violating of FTA's Charter Service regulations by:
      - (a) Conducting charter operations prohibited by federal transit laws and FTA's Charter Service regulations, or



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- (b) Otherwise violating its Charter Service Agreement selected in its latest annual Certifications and Assurances.
- (2) These corrective measures and remedies may include:
  - (a) Barring your Applicant or any Third Party Participant operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA,
  - (b) Withholding an amount of federal assistance as provided by Appendix D to FTA's Charter Service regulations, or
  - (c) Any other appropriate remedy that may apply.
- 2. In addition to the exceptions to the restrictions in FTA's Charter Service regulations, FTA has established the following additional exceptions to those restrictions:
  - a. FTA's Charter Service restrictions do not apply to your Applicant if it seeks federal assistance appropriated or made available under 49 U.S.C. §§ 5307 or 5311 to be used for Job Access and Reverse Commute (JARC) activities that would have been eligible for assistance under former 49 U.S.C. § 5316 in effect in FY 2012 or a previous fiscal year, provided that it uses that federal assistance from FTA for those program purposes only.
  - b. FTA's Charter Service restrictions do not apply to your Applicant if it seeks federal assistance appropriated or made available under 49 U.S.C. § 5310 to be used for New Freedom activities that would have been eligible for assistance under former 49 U.S.C. § 5317 in effect in FY 2012 or a previous fiscal year, provided it uses that federal assistance from FTA for those program purposes only.
  - c. An Applicant for assistance under 49 U.S.C. chapter 53 will not be determined to have violated the FTA Charter Service regulations if that Recipient provides a private intercity or charter transportation operator reasonable access to that Recipient's federally assisted public transportation facilities, including intermodal facilities, park and ride lots, and bus- only highway lanes, as provided in 49 U.S.C. § 5323(r).

### 4.C. School Bus Agreement.

*If your Applicant seeks federal assistance from FTA to acquire or operate transit facilities or equipment, the School Bus Agreement in Category 04.C applies to your Applicant, except as FTA determines otherwise in writing.*

To comply with 49 U.S.C. § 5323(f) and (g) and FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. § 5323(f) and (g), your Applicant agrees to enter into the following School Bus Agreement:

- 1. FTA's "School Bus Operations" regulations at 49 CFR part 605 restricts school bus operations using facilities and equipment acquired or improved with federal assistance derived from:
  - a. Federal transit laws, 49 U.S.C. chapter 53, b. 23 U.S.C. §§ 133 or 142, or
  - c. Any other Act that provides federal public transportation assistance, unless otherwise excepted.
- 2. FTA's school bus operations restrictions extend to:
  - a. Your Applicant, when it receives federal assistance appropriated or made available for:

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- (1) Federal transit laws, 49 U.S.C. chapter 53,
  - (2) (2) 23 U.S.C. §§ 133 or 142, or
  - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
- b. Any Third Party Participant that receives federal assistance derived from:
- (1) Federal transit laws, 49 U.S.C. chapter 53,
  - (2) 23 U.S.C. §§ 133 or 142, or
  - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
3. A Third Party Participant includes any:
- a. Subrecipient at any tier,
  - b. Lessee,
  - c. Third Party Contractor or Subcontractor at any tier, and
  - d. Any other Third Party Participant in the Award.
4. You and your Applicant agree, and will obtain the agreement of any Third Party Participant, that it will not engage in school bus operations in competition with private operators of school buses, except as permitted under:
- a. Federal transit laws, specifically 49 U.S.C. § 5323(f) and (g),
  - b. FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. § 5323(f) and (g),
  - c. Any other federal School Bus regulations, or
  - d. Federal guidance, except as FTA determines otherwise in writing.
5. You and your Applicant agree that the latest School Bus Agreement selected on its behalf in FTA's latest annual Certifications and Assurances is incorporated by reference and made part of the Underlying Agreement accompanying its Award of federal assistance.
6. You and your Applicant agree that after it is a Recipient, if it or any Third Party Participant has violated this School Bus Agreement, FTA may:
- a. Bar your Applicant or Third Party Participant from receiving further federal assistance for public transportation, or
  - b. Require the Applicant or Third Party Participant to take such remedial measures as FTA considers appropriate.

### **CATEGORY 05. ROLLING STOCK REVIEWS AND BUS TESTING.**

*Any provision of the Certifications in Category 05 that does not apply will not be enforced.*

#### **5.A. Rolling Stock Reviews.**

*If your Applicant seeks federal assistance from FTA to acquire rolling stock for use in revenue service, the Rolling Stock Reviews Certifications in Category 05.A apply to your Applicant, except as FTA determines otherwise in writing.*

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On behalf of your Applicant, you certify that, when procuring rolling stock for use in revenue service:

1. Your Applicant will comply with:
  - a. Federal transit laws, specifically 49 U.S.C. § 5323(m), and
  - b. FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR part 663, and
2. As provided in 49 CFR § 663.7:
  - a. Your Applicant will conduct or cause to be conducted the required pre-award and post-delivery reviews of that rolling stock, and
  - b. It will maintain on file the Certifications required by 49 CFR part 663, subparts B, C, and D.

### **5.B. Bus Testing.**

*If your Applicant seeks federal assistance from FTA to acquire a new bus model, the Bus Testing Certifications in Category 05.B apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify that:

1. FTA's bus testing requirements apply to all acquisitions of new buses and new bus models that require bus testing as defined in FTA's Bus Testing regulations, and it will comply with:
  - a. 49 U.S.C. § 5318, and
  - b. FTA regulations, "Bus Testing," 49 CFR part 665.
2. As required by 49 CFR § 665.7, when acquiring the first bus of any new bus model or a bus model with a major change in components or configuration, your Applicant will not spend any federal assistance appropriated under 49 U.S.C. chapter 53 to acquire that new bus or new bus model until:
  - a. That new bus or new bus model has been tested at FTA's bus testing facility, and
  - b. It has received a copy of the test report prepared for that new bus or new bus model.
3. It will ensure that the new bus or new bus model that is tested has met the performance standards consistent with those regulations, including the:
  - a. Performance standards for:
    - (1) Maintainability,
    - (2) Reliability,
    - (3) Performance (including braking performance),
    - (4) Structural integrity,
    - (5) Fuel economy,
    - (6) Emissions, and
    - (7) Noise, and
  - b. Minimum safety performance standards established under 49 U.S.C. § 5329, when issued.
4. After FTA regulations authorized by 49 U.S.C. § 5318(e)(2) are in effect, it will ensure that the new bus or new bus model that is tested has received a passing aggregate test score under the "Pass/Fail" standard established by regulation.

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### CATEGORY 06. DEMAND RESPONSIVE SERVICE.

*Any provision of the Certifications in Category 06 that does not apply will not be enforced.*

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR part 37, specifically 49 CFR § 37.77(d), on behalf of your Applicant, you certify that:

1. Your Applicant offers public transportation services equivalent in level and quality of service to:
  - a. Individuals with disabilities, including individuals who use wheelchairs, and
  - b. Individuals without disabilities.
2. Viewed in its entirety, your Applicant's service for individuals with disabilities is:
  - a. Provided in the most integrated setting feasible, and
  - b. Equivalent to the service it offers individuals without disabilities with respect to:
    - (1) Response time,
    - (2) Fares,
    - (3) Geographic service area,
    - (4) Hours and days of service,
    - (5) Restrictions on priorities based on trip purpose,
    - (6) Availability of information and reservation capability, and
    - (7) Constraints on capacity or service availability.

### CATEGORY 07. INTELLIGENT TRANSPORTATION SYSTEMS.

*Any provision of the Assurances in Category 07 that does not apply will not be enforced.*

On behalf of your Applicant, you and your Applicant:

1. Understand that, as used in this Assurance, the term Intelligent Transportation System is defined to include technologies or systems of technologies that provide or significantly contribute to the provision of one or more Intelligent Transportation System (ITS) user services as defined in the "National ITS Architecture."
2. Assure that, as provided in 23 U.S.C. § 517(d), any Award that includes an ITS or related activity financed with appropriations made available from the Highway Trust Fund, including amounts made available to deploy ITS facilities or equipment, will conform to the appropriate regional ITS architecture, applicable standards, and protocols developed under 23 U.S.C. § 517(a) or (c), unless it obtains a waiver as provided in 23 U.S.C. § 517(d)(2).

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### CATEGORY 08. INTEREST AND FINANCING COSTS AND ACQUISITION OF CAPITAL ASSETS BY LEASE.

*Any provision of the Certifications and Assurances in Category 08 that does not apply will not be enforced.*

#### **8.A. Interest and Financing Costs.**

*If your Applicant intends to use federal assistance to support the interest or any other financing costs for an Award financed under the Urbanized Area Formula Grants Program, the Fixed Guideway Capital Investment Grants Program, the New Starts, Small Starts, and Core Capacity Programs, any program that must comply with the requirements of 49 U.S.C. § 5307, or any other program as FTA may specify, the Interest and Financing Costs Certifications in Category 08.A apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify that:

1. It will not seek reimbursement for interest or any other financing costs unless:
  - a. It is eligible to receive federal assistance for those costs, and
  - b. Its records demonstrate that it has shown reasonable diligence in seeking the most favorable financing terms, as FTA may require.
2. It will comply with the same favorable financing cost provisions for Awards financed under:
  - a. The Urbanized Area Formula Grants Program,
  - b. A Full Funding Grant Agreement,
  - c. An Early Systems Work Agreement,
  - d. The Fixed Guideway Capital Investment Program financed by previous FTA enabling legislation,
  - e. Any program that must comply with the requirements of 49 U.S.C. § 5307, or
  - f. Any other program as FTA may specify.

#### **8.B. Acquisition of Capital Assets by Lease.**

*If your Applicant seeks federal assistance from FTA to acquire capital assets (other than rolling stock or related equipment) through a lease, the Acquisition of Capital Assets by Lease Certifications and Assurances in Category 08.B apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify and assure that, as required by FTA regulations, "Capital Leases," 49 CFR part 639, to the extent consistent with the FAST Act, if your Applicant

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acquires any capital asset (other than rolling stock or related equipment) through a lease financed with federal assistance appropriated or made available under 49 U.S.C. chapter 53, it will not enter into a capital lease for which FTA can provide only incremental federal assistance unless it has adequate financial resources to meet its future lease obligations if federal assistance is not available.

### **CATEGORY 09. TRANSIT ASSET MANAGEMENT PLAN, PUBLIC TRANSPORTATION AGENCY SAFETY PLAN, AND STATE SAFETY OVERSIGHT REQUIREMENTS.**

*Any provision of the Certifications in Category 09 that does not apply will not be enforced.*

#### **9.A. Transit Asset Management Plan.**

*If your Applicant applies for funding appropriated or made available for 49 U.S.C. chapter 53, the Transit Asset Management Certifications in Category 09.A apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify that it and each of its Subrecipients will:

1. Comply with FTA regulations, "Transit Asset Management," 49 CFR part 625, and
2. Follow federal guidance that will implement the regulations at 49 CFR part 625.

#### **9.B. Public Transportation Safety Program.**

*If your Applicant applies for funding under 49 U.S.C. chapter 53 and it is a State, local government authority, or any other operator of a public transportation system, the particular provisions under the Public Transportation Safety Program in Category 09.B apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify that it will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

#### **9.C. State Safety Oversight Requirements.**

On behalf of your Applicant, depending on how far the Recipient has progressed in developing a State Safety Oversight program fully compliant with 49 U.S.C. § 5329(e) and FTA regulations, "State Safety Oversight," 49 C.F.R. part 674, your applicant certifies that it will comply as follows:

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1. States With a Fully Compliant Program. The Recipient agrees that FTA regulations, "State Safety Oversight," 49 C.F.R. part 674, will apply when its State Safety Oversight program is fully compliant with FTA's requirements, but
2. States Without a Fully Compliant Program. The Recipient agrees that FTA regulations, "Rail Fixed Guideway Systems; State Safety Oversight," 49 C.F.R. part 659, will continue to apply to those states that have not yet implemented a fully compliant Public Transportation Safety Program.

### **CATEGORY 10. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.**

*Any provision of the Certifications in Category 10 that does not apply will not be enforced.*

As required by 49 U.S.C. § 5331, and FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655, subpart I, specifically 49 CFR § 655.83, on behalf of your Applicant, including an Applicant that is a state, and on behalf of its Subrecipients and Third Party Contractors, you certify that:

1. Your Applicant, its Subrecipients, and Third Party Contractors to which these testing requirements apply have established and implemented:
  - a. An alcohol misuse testing program, and
  - b. A controlled substance testing program.
2. Your Applicant, its Subrecipients, and its Third Party Contractors to which these testing requirements apply have complied or will comply with all applicable requirements of 49 CFR part 655 to the extent those regulations are consistent with 49 U.S.C. § 5331.
3. Consistent with U.S. DOT Office of Drug and Alcohol Policy and Compliance Notice, issued October 22, 2009, if your Applicant, its Subrecipients, or its Third Party Contractors to which these testing requirements apply reside in a state that permits marijuana use for medical or recreational purposes, your Applicant, its Subrecipients, and its Third Party Contractors to which these testing requirements apply have complied or will comply with the federal controlled substance testing requirements of 49 CFR part 655.

### **CATEGORY 11. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS PROGRAM (NEW STARTS, SMALL STARTS, AND CORE CAPACITY IMPROVEMENT).**

*Any provision of the Certifications in Category 11 that does not apply will not be enforced.*

Except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

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1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625,
4. It will comply with:
  - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
  - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304, and
5. It will comply with FTA guidance, "Final Interim Policy Guidance, Federal Transit Administration Capital Investment Grant Program," June 2016.

### CATEGORY 12. STATE OF GOOD REPAIR PROGRAM.

*Any provision of the Assurance in Category 12 that does not apply will not be enforced.*

On behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award,
3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625, and
4. It will comply with:
  - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
  - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.

### CATEGORY 13. GRANTS FOR BUSES AND BUS FACILITIES AND LOW OR NO EMISSION VEHICLE DEPLOYMENT GRANT PROGRAMS.

*Any provision of the Certifications in Category 13 that does not apply will not be enforced.*

#### 13.A. Grants for Buses and Bus Facilities Program

*The following Certifications for the Grants for Buses and Bus Facilities Program are required by 49 U.S.C. § 5339, as amended by the FAST Act, which provides that the requirements of 49 U.S.C. § 5307 shall apply to recipients of grants made in urbanized areas and the requirements of 49 U.S.C. § 5311 shall apply to recipients of grants made in rural areas. Therefore:*

1. If your Applicant is in an urbanized area, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:



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- a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
- b. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
- c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
- d. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5339 during non-peak hours for transportation, recipients in an urbanized area will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
  - (1) Any senior,
  - (2) Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
  - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
  - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
- e. When carrying out a procurement under 49 U.S.C. § 5339, it will comply with:
  - (1) The applicable general provisions of 49 U.S.C. § 5323, and
  - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.
- f. It has complied with or will comply with 49 U.S.C. § 5307(b).
- g. As required by 49 U.S.C. § 5307(d):
  - (1) It has or will have the amount of funds required for the non-federal share,
  - (2) It will provide the non-federal share from sources approved by FTA, and
  - (3) It will provide the non-federal share when needed.
- h. It will comply with:
  - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
  - (2) The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.

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- i. It has a locally developed process to solicit and consider public comment before:
    - (1) Raising a fare, or
    - (2) Implementing a major reduction of public transportation service.
  - j. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.
2. Except as FTA determines otherwise in writing, if your Applicant is in a rural area, you certify, on behalf of your Applicant, that:
- a. It has or will have and require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
  - b. It has or will have and require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
  - c. It will maintain and require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
  - d. Its state program has provided for a fair distribution of federal assistance appropriated or made available under 49 U.S.C. § 5311(b) within the state to eligible entities, including Indian reservations.
  - e. Its program provides or will provide the maximum feasible coordination of federal assistance for public transportation service with transportation service financed by other federal sources.
  - f. Its Awards and Subawards in its Formula Grants for Rural Areas Program are included in:
    - (1) The statewide transportation improvement program, and
    - (2) To the extent applicable, a metropolitan transportation improvement program.
  - g. With respect to the non-federal share:
    - (1) It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by 49 U.S.C. § 5311(g),
    - (2) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and
    - (3) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.
  - h. It may transfer a facility or equipment acquired or improved under its Award to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
    - (1) The Recipient possessing the facility or equipment consents to the transfer, and
    - (2) The facility or equipment will continue to be used as required under 49 U.S.C. § 5311.

### **13.B. Low or No Emission Vehicle Deployment.**

*If your Applicant seeks federal assistance from FTA for an Award financed under the Low or No Emission Vehicle Development Program authorized under former 49 U.S.C. § 5312(d)(5), the*

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*Certifications and Assurances in Category 13.B apply to your Applicant, except as FTA determines otherwise in writing.*

Former section 5312(d)(5)(C)(i) of title 49, United States Code, requires the following Certifications for Low or No Emission Vehicle Deployment Program before awarding federal assistance appropriated or made available under MAP-21. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify and assure that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with the Recipient's transit management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
4. When using or involving a facility or equipment acquired or improved with federal assistance under former 49 U.S.C. § 5312(d)(5) during non-peak hours for transportation, it will charge a fare not exceeding fifty (50) percent of the peak hour to the following individuals:
  - a. Any senior,
  - b. Any individual who, because of illness, injury, age, a congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or who has semi-ambulatory capability) and is unable to use a public transportation service or a public transportation facility effectively without special facilities, special planning, or special design,
  - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
  - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
5. When carrying out a procurement under this Program, it will comply with:
  - a. The applicable general provisions of 49 U.S.C. § 5323, and
  - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. It has complied with or will comply with 49 U.S.C. § 5307(b) because:
  - a. It has informed or will inform the public of the amounts of its federal assistance available under this Program,
  - b. It has developed or will develop, in consultation with interested parties including private transportation providers, its proposed Program of Projects for activities to be financed,
  - c. It has published or will publish its proposed Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Projects and its performance as an Applicant,
  - d. It has provided or will provide an opportunity for a public hearing to obtain the views of individuals on its proposed Program of Projects,
  - e. It has assured or will assure that its proposed Program of Projects provides for coordination of public transportation services assisted under 49 U.S.C. § 5336, as amended by the FAST Act, with federally assisted transportation services supported by other federal sources,

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- f. It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and
  - g. It has made or will make the final list of Projects for which an Award is sought available to the public.
7. With respect to the non-federal share:
- a. It has or will have the amount of funds required for the non-federal share,
  - b. It will provide the non-federal share from sources approved by FTA, and
  - c. It will provide the non-federal share when needed.
8. It will comply with:
- a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
  - b. The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
9. It has a locally developed process to solicit and consider public comment before:
- a. Raising a fare, or
  - b. Implementing a major reduction of public transportation service.
10. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

### **CATEGORY 14. URBANIZED AREA FORMULA GRANTS PROGRAMS AND PASSENGER FERRY GRANT PROGRAM.**

*Before FTA may provide federal assistance for an Award financed under the Urbanized Area Formula Grants Program authorized under 49 U.S.C. § 5307, as amended by the FAST Act, which authorizes federal assistance for Job Access and Reverse Commute (JARC) activities, and the Passenger Ferry Grant Program authorized under 49 U.S.C. § 5307(h), you must select the Certifications in Category 14, except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 14 that does not apply will not be enforced.*

#### **14.A. Urbanized Area Formula Grants Program under the FAST Act.**

*If your Applicant seeks federal assistance from FTA for an Award financed under the Urbanized Area Formula Grants Program authorized under 49 U.S.C. § 5307, as amended by the FAST Act, the Certifications in Category 14.A apply to your Applicant, except as FTA determines otherwise in writing.*

The following Certifications for the Urbanized Area Formula Grants Program under 49 U.S.C. § 5307, as amended by the FAST Act, are required by 49 U.S.C. § 5307(c)(1). Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

- 1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
- 2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.

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3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625,
4. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5307 during non-peak hours for transportation, it will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
  - a. Any senior,
  - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
  - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
  - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
5. When carrying out a procurement under 49 U.S.C. § 5307, it will comply with:
  - a. The applicable general provisions of 49 U.S.C. § 5323, and
  - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. It has complied with or will comply with 49 U.S.C. § 5307(b) because:
  - a. It has made or will make available to the public information on the amounts of federal assistance available to it under 49 U.S.C. § 5307,
  - b. It has developed or will develop, in consultation with interested parties including private transportation providers, its proposed Program of Projects for activities for which federal assistance is sought,
  - c. It has published or will publish its proposed Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on its proposed Program of Projects and its performance as an Applicant or Recipient,
  - d. It has provided or will provide an opportunity for a public hearing to obtain the views of individuals on its proposed Program of Projects,
  - e. It has ensured or will ensure that its proposed Program of Projects provides for coordination of transportation services financed by FTA under 49 U.S.C. § 5336, as amended by the FAST Act, with transportation services supported by other Federal Government sources,
  - f. It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
  - g. It has made or will make its final Program of Projects available to the public.
7. As required by 49 U.S.C. § 5307(d):
  - a. It has or will have the amount of funds required for the non-federal share,
  - b. It will provide the non-federal share from sources approved by FTA, and
  - c. It will provide the non-federal share when needed.
8. As required by 49 U.S.C. § 5307(c)(1)(H), it will comply with:
  - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and

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- b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
9. As required by 49 U.S.C. § 5307(c)(1)(I), it has a locally developed process to solicit and consider public comment before:
  - a. Raising a fare, or
  - b. Implementing a major reduction of public transportation.
10. Each fiscal year:
  - a. It will assure that at least one (1) percent of the amount of federal assistance under 49 U.S.C. § 5307 apportioned to its urbanized area must be expended for Public Transportation Security activities as described in 49 U.S.C. § 5307(c)(1)(J)(i) including:
    - (1) Increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages),
    - (2) Increased camera surveillance of an area in or adjacent to that system,
    - (3) Emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and
    - (4) Any other activity intended to increase the security and safety of an existing or planned public transportation system, or
  - b. The Designated Recipients in its urbanized area certify that such expenditures for Public Transportation Security activities are not necessary.
11. If it serves an urbanized area with a population of at least 200,000 individuals, as determined by the Bureau of the Census:
  - a. It will provide a report by the end of the fourth quarter of the preceding federal fiscal year that lists projects carried out in the preceding fiscal year under this section for associated transit improvements as defined in 49 U.S.C. § 5302, and
  - b. The report of its Associated Transit Improvements or related activities is or will be incorporated by reference and made part of its Certifications and Assurances.
12. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

### **14.B. Passenger Ferry Grant Program.**

*If your Applicant seeks federal assistance from FTA for an Award financed under the Passenger Ferry Grant Program authorized under 49 U.S.C. § 5307(h), as amended by the FAST Act, the Certifications in Category 14.B apply to your Applicant, except as FTA determines otherwise in writing.*

The following Certifications for the Passenger Ferry Grant Program are required by 49 U.S.C. § 5307(c)(1) or (h). Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.

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3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
4. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5307(h) during non-peak hours for transportation, it will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
  - a. Any senior,
  - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
  - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
  - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
5. When carrying out a procurement under 49 U.S.C. § 5307(h), it will comply with:
  - a. The applicable general provisions of 49 U.S.C. § 5323, and
  - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. As required by 49 U.S.C. § 5307(d):
  - a. It has or will have the amount of funds required for the non-federal share,
  - b. It will provide the non-federal share from sources approved by FTA, and
  - c. It will provide the non-federal share when needed.
7. As required by 49 U.S.C. § 5307(c)(1)(H), it will comply with:
  - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
  - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
8. As required by 49 U.S.C. § 5307(c)(1)(I), it has a locally developed process to solicit and consider public comment before:
  - a. Raising a fare, or
  - b. Implementing a major reduction of public transportation service.
9. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

### **CATEGORY 15. ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAMS.**

*Any provision of the Certifications in Category 15 that does not apply will not be enforced.*

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1. The following Certifications for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program are required by 49 U.S.C. § 5310. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
  - a. Each Subrecipient is:
    - (1) A private nonprofit organization, or
    - (2) A state or local governmental authority that:
      - (a) Is approved by a state to coordinate services for seniors and individuals with disabilities, or
      - (b) Certifies that there are no private nonprofit organizations readily available in the area to provide the services authorized for support under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program.
  - b. Your Applicant will comply with the following selection and planning requirements:
    - (1) The Projects it has selected or will select for an Award or Subaward of federal assistance appropriated or made available under 49 U.S.C. § 5310 are included in a public transit-human services transportation plan that has been:
      - (a) Locally developed, and
      - (b) Coordinated.
    - (2) The public transit-human services transportation plan was developed and approved through a process that included participation by:
      - (a) Seniors,
      - (b) Individuals with disabilities,
      - (c) Representatives of public, private, and nonprofit transportation providers,
      - (d) Representatives of public, private, and nonprofit human services providers, and
      - (e) Other members of the public.
    - (3) Within its Award, the Projects selected to receive federal assistance will assist in providing transportation services for seniors and individuals with disabilities are included in its Program of Projects submitted to FTA annually.
    - (4) To the maximum extent feasible, the services financed by 49 U.S.C. § 5310 will be coordinated with transportation services financed by other federal departments and agencies, including any transportation activities carried out by a recipient of federal assistance from the Department of Health and Human Services.
  - c. As required by 49 U.S.C. § 5310(e)(2)(B), it certifies that if it allocates federal assistance received under 49 U.S.C. § 5310 to any Subrecipient, it will have allocated that federal assistance on a fair and equitable basis.
  - d. It will not transfer a facility or equipment acquired or improved with federal assistance appropriated or made available for a grant under 49 U.S.C. § 5310 to any other recipient eligible to receive assistance under 49 U.S.C. chapter 53, unless:
    - (1) The recipient possessing the facility or equipment consents to the transfer, and
    - (2) The facility or equipment will continue to be used as required under 49 U.S.C. § 5310.
  - e. As required by 49 U.S.C. § 5310(b)(2), it will use at least fifty-five (55) percent of the federal assistance it receives for Capital Projects to meet the special needs of seniors and individuals with disabilities.



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- f. The requirements of 49 U.S.C. § 5307, as determined by FTA, will apply to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program authorized by 49 U.S.C. § 5310.
2. FTA has determined that certain requirements of 49 U.S.C. § 5307 are appropriate for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, some of which require Certifications. Therefore, as specified under 49 U.S.C. § 5307(c)(1), your Applicant certifies that:
  - a. It has or will have and will require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
  - b. It has or will have and will require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award or Subaward.
  - c. It will maintain and will require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award or Subaward, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
  - d. When carrying out a procurement under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, it will require each Subrecipient to comply with:
    - (1) The applicable general provisions of 49 U.S.C. § 5323, and
    - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.
  - e. With respect to the non-federal share:
    - (1) It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by 49 U.S.C. § 5310,
    - (2) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and
    - (3) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.
  - f. It has complied or will comply and will require each Subrecipient to comply with:
    - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
    - (2) The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
  - g. To the extent applicable, it will and will require its Subrecipients to comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

### **CATEGORY 16. RURAL AREAS AND APPALACHIAN DEVELOPMENT PROGRAMS.**

*Any provision of the Certifications and Assurances in Category 16 that does not apply will not be enforced.*

#### **16.A. Formula Grants for Rural Areas Program.**

*If your Applicant seeks federal assistance from FTA for an Award financed under the Formula Grants for Rural Areas Program authorized under 49 U.S.C. § 5311, as amended by FAST Act, the Certifications in Category 16.A apply to your Applicant, except as FTA determines otherwise in writing.*

### **FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES**

The following Certifications apply to each state or state organization serving as your Applicant for federal assistance appropriated or made available for the Rural Areas Formula Program financed under 49 U.S.C. § 5311(b), as amended by FAST Act. On its behalf, you certify and assure that:

1. It has or will have and require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have and require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain and require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
4. It will and will require each Subrecipient to comply with applicable regulations and guidance that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.
5. Its state program has provided for a fair distribution of federal assistance appropriated or made available under 49 U.S.C. § 5311(b) within the state to eligible entities, including Indian reservations.
6. Its program provides or will provide the maximum feasible coordination of federal assistance for public transportation service authorized by 49 U.S.C. § 5311(b) with transportation service financed by other federal sources.
7. Its Awards and Subawards in its Formula Grants for Rural Areas Program are included in:
  - a. The statewide transportation improvement program, and
  - b. To the extent applicable, a metropolitan transportation improvement program.
8. With respect to the non-federal share:
  - a. It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by former 49 U.S.C. § 5311(g),
  - b. It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

- c. It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.
9. It may transfer a facility or equipment acquired or improved under its Award to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
  - a. The Recipient possessing the facility or equipment consents to the transfer, and
  - b. The facility or equipment will continue to be used as required under 49 U.S.C. § 5311.
10. Each fiscal year:
  - a. It will spend at least fifteen (15) percent of its federal assistance authorized under 49 U.S.C. § 5311 and available that fiscal year for eligible activities to develop and support intercity bus transportation within the state including:
    - (1) Planning and marketing for intercity bus transportation,
    - (2) Capital grants for intercity bus facilities,
    - (3) Joint-use facilities,
    - (4) Operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects, and
    - (5) Coordinating rural connections between small public transportation operations and intercity bus carriers, or
  - b. It will provide to FTA a Certification from the governor of the state that:
    - (1) It has consulted with the affected intercity bus service providers about the intercity bus needs of the state, and
    - (2) The state's intercity bus service needs are being met adequately.

### **16.B. Appalachian Development Public Transportation Assistance Program.**

*If your Applicant seeks federal assistance from FTA for an Award financed under the Appalachian Development Public Transportation Assistance Program authorized under 49 U.S.C. § 5311(c)(2), the Certifications in Category 16.B apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify and assure that, if it is unable to use its federal assistance made available or appropriated for public transportation operating assistance, in accordance with 49 U.S.C. § 5311(c)(2)(D), it may use the federal assistance for a Highway Project only after:

1. It provides notice and an opportunity for comment and appeal to affected public transportation providers,
2. It approves such use in writing, and
3. In approving the use, it determines that local transit needs are being addressed.
4. It complies or will comply, to the extent applicable, with the recipient's transit asset management plan consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625, and
5. It complies or will comply, to the extent applicable, with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

### CATEGORY 17. TRIBAL TRANSIT PROGRAMS (PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS PROGRAMS).

*Any provision of the Certifications in Category 17 that does not apply will not be enforced.*

FTA has established terms and conditions for Tribal Transit Program grants financed with federal assistance appropriated or made available under 49 U.S.C. § 5311(c)(1). On behalf of your Applicant, you certify and assure that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.4. Its Award will achieve maximum feasible coordination with transportation service financed by other federal sources.
4. With respect to its procurement system:
  - a. It will have a procurement system that complies with 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, for Awards made on or after December 26, 2014,
  - b. It will have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 CFR part 18, specifically former 49 CFR § 18.36, for Awards made before December 26, 2014, or
  - c. It will inform FTA promptly if its procurement system does not comply with either of those U.S. DOT regulations.
5. It will comply with the Certifications, Assurances, and Agreements in:
  - a. Category 03.B and 03.C (Charter Service Agreement and School Bus Agreement),
  - b. Category 05.B (Bus Testing),
  - c. Category 06 (Demand Responsive Service),
  - d. Category 07 (Intelligent Transportation Systems), and
  - e. Category 10 (Alcohol and Controlled Substances Testing).

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### **CATEGORY 18. STATE SAFETY OVERSIGHT GRANT PROGRAM.**

*Any provision of the Certifications in Category 18 that does not apply will not be enforced.*

On behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with the Recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
4. When carrying out a procurement under its Award, it will comply with:
  - a. The applicable general provisions of 49 U.S.C. § 5323, and
  - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
5. As required by 49 U.S.C. § 5329(e)(6)(C):
  - a. It has or will have the amount of funds required for the non-federal share,
  - b. It will provide the non-federal share only from sources approved by FTA, and will not be met by:
    - (1) Any federal assistance,
    - (2) Any funds received from a public transportation agency, or
    - (3) Any revenues earned by a public transportation agency, and
  - c. Will provide the non-federal share when needed.
6. Depending on how far the Recipient has progressed in developing a State Safety Oversight program fully compliant with 49 C.F.R. part 674, the following FTA regulations will apply:
  - a. States With a Fully Compliant Program. The Recipient agrees that FTA regulations, "State Safety Oversight," 49 C.F.R. part 674, will apply when its State Safety Oversight program is fully compliant with FTA's requirements;
  - b. States Without a Fully Compliant Program. The Recipient agrees that FTA regulations, "Rail Fixed Guideway Systems; State Safety Oversight," 49 C.F.R. part 659, will continue to apply to those states that have not yet implemented a fully compliant Public Transportation Safety Program.

### **CATEGORY 19. PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.**

*Any provision of the Assurance in Category 19 that does not apply will not be enforced.*

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

As required by 49 U.S.C. § 5324(d), on behalf of your Applicant, you assure that it will:

1. Comply with the requirements of the Certifications and Assurances as FTA determines will apply to an Applicant for federal assistance appropriated or made available for the Public Transportation Emergency Relief Program, and
2. Comply with FTA regulations, "Emergency Relief," 49 C.F.R. part 602.

### CATEGORY 20. EXPEDITED PROJECT DELIVERY PILOT PROGRAM.

*To the extent that any Certification in Category 20 does not apply, it will not be enforced.*

As required by section 3005(b)(3)(B) of the FAST Act, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
4. It will comply with:
  - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
  - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.

### CATEGORY 21. INFRASTRUCTURE FINANCE PROGRAMS.

*If the Applicant does not receive credit assistance under the TIFIA or SIB programs, the Certifications and Assurances in Category 21 will not be enforced.*

#### **21.A. Transportation Infrastructure Finance and Innovation Act (TIFIA) Program.**

*If your Applicant seeks federal assistance from FTA for an Award that also is or will be financed under the TIFIA Program authorized under 23 U.S.C. §§ 601 – 609 the Certifications and Assurances in Category 21.A apply to your Applicant. In administering this Program, the FAST Act cross-cutting requirements supersede inconsistent former requirements.*

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

On behalf of your Applicant, you certify and assure, as required by 49 U.S.C. § 5323(o), that federal transit laws, specifically 49 U.S.C. § 5307, 49 U.S.C. § 5309, and 49 U.S.C. § 5337, apply to any Project under 49 U.S.C. chapter 53 that receives TIFIA credit assistance under 23 U.S.C. §§ 601 – 609.

1. To comply with 49 U.S.C. §5307, specifically 49 U.S.C. § 5307(c)(1), on your Applicant's behalf, you certify that:
  - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
  - b. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
  - c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
  - d. For transportation during non-peak hours and using or involving a facility or equipment of an Award financed using 49 U.S.C. § 5307 funds, it will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
    - (1) Any senior,
    - (2) Any individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
    - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
    - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
  - e. When carrying out a TIFIA-financed procurement, the Applicant will comply with:
    - (1) The applicable provisions of 49 U.S.C. § 5323, and
    - (2) The applicable provisions of 49 U.S.C. § 5325.
  - f. It has complied with or will comply with 49 U.S.C. § 5307(b).
  - g. (1) It has or will have no more than 80 percent of the Total Award Budget as the sum of all federal grants and any TIFIA-financed awards,
    - (2) It will provide the non-federal share from sources approved by FTA, and
    - (3) It will provide the non-federal share when needed.
  - h. It will comply with:
    - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
    - (2) The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
  - i. It has a locally developed process to solicit and consider public comment before:
    - (1) Raising a fare, or
    - (2) Implementing a major reduction of public transportation.
  - j. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

2. To comply with the interest and financing costs restrictions of 49 U.S.C. chapter 53, it agrees that it will not seek reimbursement for interest or any other financing costs incurred in connection with its Award that must be in compliance with those requirements unless:
  - a. It is eligible to receive federal assistance for those expenses, and
  - b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.
3. It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*).
4. Pursuant to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 5321 *et seq.*, the Project will qualify for an environmental categorical exclusion or receive a finding of no significant impact or a record of decision under NEPA before the Applicant undertakes activities for which it expects to receive federal assistance.
5. It agrees that it will adopt a transit asset management plan that complies with regulations implementing 49 U.S.C. § 5326(d).

### **21.B. State Infrastructure Banks (SIB) Program.**

*If your Applicant is a state and seeks federal assistance from FTA for a project that also is or will be financed under the SIB Program authorized under 23 U.S.C. § 610, the Certifications and Assurances in Category 21.B apply to your state and its Award, except as the Secretary determines in writing. In administering this Program, the FAST Act cross-cutting requirements supersede inconsistent former requirements.*

On behalf of the state Applicant for federal assistance for its SIB Program, you certify and assure that:

1. It will comply with the following applicable federal laws establishing the various SIB Programs since 1995:
  - a. 23 U.S.C. § 610,
  - b. Section 1511 of TEA-21, 23 U.S.C. § 181 note, or
  - c. Section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. § 181.
2. It will comply with or follow the Grant Agreement between it and FTA that provides federal assistance to the SIB, including the FTA Master Agreement, which is incorporated by reference into the Grant Agreement, except that, unless FTA determines otherwise in writing, a provision of the FTA Master Agreement incorporated by reference into that Grant Agreement will not apply if it conflicts with any provision of:
  - a. 23 U.S.C. § 610, as amended by the FAST Act,
  - b. 23 U.S.C. § 610 or its predecessor before the FAST Act was signed into law,
  - c. Section 1511 of TEA-21, 23 U.S.C. § 181 note, or section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. § 181 note,
  - d. Federal guidance pertaining to the SIB Program,
  - e. The SIB Cooperative Agreement establishing the state's SIB Program,
  - f. The Grant Agreement with FTA.
3. As required by 49 U.S.C. § 5323(o), federal transit laws, specifically 49 U.S.C. § 5307, 49 U.S.C. § 5309, and 49 U.S.C. § 5337, as amended by the FAST Act, apply to any Award



## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

- under 49 U.S.C. chapter 53 that receives SIB support or financing under title 23, United States Code.
4. As required by 49 U.S.C. § 5323(o) and 49 U.S.C. § 5307(c)(1):
    - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
    - b. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
    - c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
    - d. When using or involving a facility or equipment acquired or improved with federal assistance under a SIB-financed Award during non-peak hours for transportation, it will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
      - (1) Any senior,
      - (2) Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
      - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
      - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
    - e. When carrying out a procurement under a SIB-financed Award, it will comply with:
      - (1) The applicable general provisions of 49 U.S.C. § 5323, and
      - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.
    - f. It has complied with or will comply with 49 U.S.C. § 5307(b).
    - g. It has or will have or provide:
      - (1) The amount of funds required for the non-federal share by the SIB Program, but not less than twenty-five (25) percent of each capitalization grant,
      - (2) The non-federal share from sources approved by FTA, and
      - (3) The non-federal share when needed.
    - h. It will comply with:
      - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
      - (2) The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
    - i. It has a locally developed process to solicit and consider public comment before:
      - (1) Raising a fare, or
      - (2) Implementing a major reduction of public transportation.
    - j. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of § 5329(b)-(d), except as FTA determines otherwise in writing.
  5. As required by 49 U.S.C. chapter 53, it certifies that it will not seek reimbursement for interest or any other financing costs incurred in connection with its Award unless:
    - a. It is eligible to receive federal assistance for those expenses, and

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

- b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, as FTA may require.
6. It agrees that it will adopt a transit asset management plan that complies with FTA regulations, "Transit Asset Management," 49 CFR part 625.

### CATEGORY 22. PAUL S. SARBANES TRANSIT IN PARKS PROGRAM.

*Any provision of the Certifications and Assurances in Category 22 that does not apply will not be enforced.*

1. Except as superseded by the FAST Act cross-cutting requirements, the following Certifications and Assurances for the Paul S. Sarbanes Transit in Parks Program (Parks Program) are required by former 49 U.S.C. § 5320, in effect in FY 2012 or a previous fiscal year. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
  - a. It will consult with the appropriate federal land management agency during the planning process, and
  - b. The requirements of former 49 U.S.C. § 5307, as determined by FTA, will apply to the Parks Program authorized by former 49 U.S.C. § 5320.
2. FTA has determined certain requirements of former 49 U.S.C. § 5307 to be appropriate for the Parks Program, of which some require Certifications. Therefore, as specified under former 49 U.S.C. § 5307(d)(1), except as superseded by the FAST Act cross-cutting requirements that apply, you certify that your Applicant:
  - a. Has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
  - b. Has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
  - c. Will maintain its equipment and facilities acquired or improved under its Award.
  - d. When carrying out a procurement under former 49 U.S.C. § 5320, it will comply and will require each Subrecipient to comply with the following provisions:
    - (1) Competitive procurement (as defined or approved by FTA) requirements of 49 U.S.C. § 5325(a),
    - (2) The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. § 5323(h),
    - (3) "Buy America" requirements under 49 U.S.C. § 5323(j), as amended by the FAST Act, and FTA regulations, "Buy America Requirements," 49 CFR part 661,
    - (4) Applicable pre-award and post-delivery requirements of 49 U.S.C. § 5323(m),
    - (5) Applicable railcar option restrictions of 49 U.S.C. § 5325(e), and
    - (6) "Veterans Preference/Employment" requirements under 49 U.S.C. § 5325(k).
  - e. It will comply with other applicable requirements under 49 U.S.C. § 5323 and § 5325.

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

- f. It has complied or will comply with the requirements of former 49 U.S.C. § 5307(c), and specifically:
  - (1) It has made or will make available to the public information on the amounts available for the Parks Program, former 49 U.S.C. § 5320, and the Projects it proposes to implement under its Award,
  - (2) It has developed or will develop, in consultation with interested parties including private transportation providers, Projects to be financed under its Award,
  - (3) It has published or will publish a list of proposed Projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed Projects and submit comments on the proposed Projects and its performance,
  - (4) It has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed Projects,
  - (5) It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and
  - (6) It has made or will make the final list of Projects for which an Award is sought available to the public.
- g. With respect to the non-federal share:
  - (1) It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by 49 U.S.C. § 5320,
  - (2) It will provide the non-federal share from sources approved by FTA, and
  - (3) It will provide the non-federal share when needed.
- h. It has complied or will comply with and will require each Subrecipient to comply with:
  - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
  - (2) The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
- i. It has a locally developed process to solicit and consider public comment before:
  - (1) Raising a fare, or
  - (2) Implementing a major reduction of public transportation.

### CATEGORY 23. CONSTRUCTION HIRING PREFERENCES.

*Any provision of the Certifications in Category 23 that does not apply will not be enforced.*

As provided by section 192 of division L, title I of the Consolidated Appropriations Act, 2017, Public Law No. 114-113, on behalf of your Applicant, you certify that if, in connection with any third party contract for construction hiring financed under title 49 U.S.C. or title 23 U.S.C., it uses a geographic, economic, or any other hiring preference not otherwise authorized by law or prohibited under 2 CFR § 200.319(b):

## FTA FISCAL YEAR 2017 CERTIFICATIONS AND ASSURANCES

1. Except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the work that the third party contract requires resides in the jurisdiction where the work will be performed,,
2. It will include appropriate provisions in its bid document ensuring that its third party contractor(s) do not displace any of its existing employees in order to satisfy such hiring preference, and
3. That any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the applicable Statewide Transportation Improvement Program or Transportation Improvement Program.

## EXHIBIT D

### INSTRUCTIONS FOR ANNUAL CERTIFICATION TO COMPLY WITH CODE OF FEDERAL REGULATIONS (CFR) – TITLE 2, PART 200

Project Name: Community Based Transportation to Work

Does this Project receive federal funds?  Yes  No

Amount of federal funds: \$372,026.00

Federal Project Number: IL-2017-017-01

CFDA Number\*, Federal Agency, Program Title: 20.513

\*For CFDA (Catalog of Federal Domestic Assistance) Number, refer to original Federal Award/Grant Agreement.

The Regional Transportation Authority (RTA) is required by federal law to obtain and review the single audit of all Grantees that had any federally participating funds pass through it, irrespective of the amount provided by the RTA. It is the responsibility of the Grantee expending federal funds to comply with the requirements of CFR, Title 2, Part 200 and determine whether they are required to have a single audit performed. Therefore, in accordance with CFR, Title 2-Subtitle A, Chapter II, Part 200, Subpart F, *Audit Requirements*, you are required to have a single audit performed if \$750,000 or more in federal awards from all sources including other agencies were expended in the fiscal year. To comply with this provision, the following must be submitted:

- The Grantee must submit to the RTA the attached Certification Form annually within one month of the close of the fiscal year.
- If applicable, a copy of the report of the single audit must be submitted no more than nine months after the end of the Grantee's fiscal year.

If your agency receives multiple awards from the RTA, only one annual submittal of this information is required.

The single audit must be comprised of four parts. The Grantee has the option of including the four parts in one report or a combination of reports. The four parts are commonly known as:

1. Comprehensive Annual Financial Report (Financial Statements).
2. Schedule of Expenditures of Federal Awards and Independent Auditor's Report thereon.
3. Independent Auditor's Report on Internal Control over Financial Reporting and on Compliance and other matters based on an Audit of Financial Statements performed in accordance with Government Auditing Standards.
4. Independent Auditor's Report on Compliance with Requirements Applicable to each Major Program and on Internal Control over Compliance in accordance with CFR, Title 2, Part 200.

Additional information which should be submitted to RTA, if applicable:

1. Corrective Action Plan(s)
2. Management Letter
3. Status of Prior Year Findings

**CODE OF FEDERAL REGULATIONS (CFR) – TITLE 2, PART 200  
AUDIT REQUIREMENTS CERTIFICATION FORM**

Grantee's Legal Name: \_\_\_\_\_

Grantee's Address: \_\_\_\_\_

Grantee's Fiscal Year\*: \_\_\_\_\_  
(month) (day) (year) (month) (day) (year)

\*A **fiscal year** (or financial year, or sometimes budget year) is a period used for calculating annual ("yearly") financial statements in businesses and other organizations. The fiscal year is **not** your TSA contract period. Please indicate above the fiscal year this certification covers.

Project Name(s): Community Based Transportation to Work

**Please (1) check the appropriate box, (2) sign below, and (3) return this certification to the address below.**

I certify our agency did not expend \$750,000 or more in federal awards during the fiscal year entered above and was not required to have a single audit conducted.

Our agency will submit the audit no more than nine months after the end of the fiscal year.

Grantee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ E-Mail: \_\_\_\_\_

**Please return to:** Regional Transportation Authority  
Attn: Michael Zumach  
175 W. Jackson Blvd., Suite 1650  
Chicago, IL 60604

**Questions:** Michael Zumach, Deputy Executive Director, Audit  
(312) 913-3237  
zumachm@rtachicago.org