

NAME OF AWARDING FEDERAL AGENCY: Federal Transit Administration  
SUB-RECIPIENT NAME: The City of Round Rock  
SUBAWARD NAME: JARC-Projects-FY2009 and FY2010  
SUBAWARD #: TX-37-x065-01  
SUBAWARD DATE: 11/8/2011  
AMOUNT OF SUBAWARD: \$302,216  
CFDA TITLE: JARC  
CFDA #: 20.516  
DUNS#: 10-274-0792  
FAINS#: TX-37-x065-01  
TYPE OF GRANT: JARC  
RESEARCH AND DEVELOPMENT GRANT: Yes No X  
SERVICE AREA: AUSTIN UZA

**EXHIBIT**

**"A"**

**CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY  
JOB ACCESS REVERSE COMMUTE PROJECT GRANT AGREEMENT**

This Project Grant Agreement ("PGA") is entered into by and between the Capital Metropolitan Transportation Authority, a transportation authority and political subdivision organized under Chapter 451 of the Texas Transportation Code (Capital Metro) and the City of Round Rock, a local government entity (Sub recipient), collectively referred to as the "Parties".

**I. Recitals**

Whereas, Capital Metro acts as designated recipient for the Federal Transit Administration (FTA), under 49 U.S.C. Section 5316 for the Austin Urbanized Area (Austin UZA);

Whereas, the Sub recipient has submitted a project proposal for financial assistance to be used to provide transportation services and is eligible to receive funding under 49 U.S.C. Section 5316;

Whereas, the Capital Area Metropolitan Planning Organization (CAMPO) Transportation Policy Board has approved the Sub recipient's project proposal;

Whereas, the Sub recipient has executed and adheres to the federal fiscal year certifications and assurances for the FTA assistance programs as required at the start of each fiscal year grant period for consideration for state and/or federal grants;

NOW, THEREFORE, in consideration of mutual covenants and agreements contained herein, the Parties agree to the terms and conditions below as evidenced by the signatures of their respective authorized representatives.

**II. Project Description**

The Sub-recipient shall be responsible for completing the public transportation project (project) described in Attachment A-1 (Approved Project Description). If applicable, the Sub-recipient shall begin competitive procurement procedures by issuing an invitation for bids or a request for proposals no later than sixty (60) days after the effective date of this PGA for the purchase of the approved line item(s) referenced in Attachment B-1. No later than sixty (60) days after the issuance of public notification, the Sub-recipient shall publicly open all bids or

privately review proposals. The Sub-recipient shall enter into a binding agreement with a supplier no later than forty-five (45) days after the opening of an acceptable bid or proposal. The Sub-recipient shall notify Capital Metro in writing when it is necessary to exceed these deadlines.

### **III. General Terms & Conditions**

#### **Article 1. Grant Time Period**

- A. The term of this PGA is from the date of the last Party to sign (Effective Date) through 8/30/2018. Notwithstanding the termination or expiration of this PGA, certain provisions *e.g.*, right to audit, shall survive the termination or expiration of this PGA. Notwithstanding anything to the contrary, the Parties may mutually agree to terminate this PGA at any time.

The term of this PGA cannot be extended past the grant time period as specified preceding paragraph, without exception. Any costs incurred by Sub-recipient after the Grant Time Period is ineligible for reimbursement.

#### **Article 2. PGA Amount**

- A. The maximum amount payable under this PGA is \$302,216. Sub-recipient shall make sure all expenditures are made in accordance with the amounts and for the purposes authorized in the Attachment A-1 and Attachment B-1.
- B. To be eligible for reimbursement under this PGA, a cost must be incurred and authorized within the PGA period specified in the Grant Time Period.
- C. The Sub-recipient may submit requests for reimbursement to Capital Metro no more frequently than monthly, at least once a quarter, and no later than fifteen (15) calendar days from the end of the fiscal quarter. The Sub-recipient will use invoice statements acceptable to Capital Metro. Additional documentation to support any cost incurred during the billing period may be required at the discretion of Capital Metro. As a minimum, each billing must be accompanied by a summary by budget line item which indicates the total amount authorized for each line item, previous expenditures, current period expenditures and the balance remaining in the line item.
- D. The original and one copy of the invoice, including any supporting documentation such as check copies, bank statements, payroll records, copies of vendor invoices, etc., as applicable, is to be submitted to the following address:

Capital Metropolitan Transportation Authority  
Finance Department  
P.O. Box 6308  
Austin, Texas 78762-6308

- E. Capital Metro will make payment within thirty (30) days of the receipt of an undisputed invoice.
- F. The Sub-recipient will submit a final billing within forty-five (45) days of the completion or termination of the PGA in accordance with the Grant Period.
- G. Because the PGA provides for reimbursement of costs that have already been incurred, Sub-recipient shall be responsible for paying all subcontractors and vendors prior to submitting a request for reimbursement. If for any reason a subcontractor or vendor has not been paid, the Sub-recipient shall pay that subcontractor or vendor for work performed within ten (10) days after the Sub-recipient receives payment for the work performed by the subcontractor. Also, any retained moneys on a subcontractor's work shall be paid to the subcontractor within ten

(10) days after the Sub-recipient receives any retainage payment.

Capital Metro shall not be responsible for the debts of the Sub-recipient. This provision will be made a part of all subcontracts resulting from this PGA. Failure to comply with any provision of this PGA may cause delays to Sub-recipient's reimbursement and will be grounds for termination of this PGA by Capital Metro. This provision is applicable to all sub-tier subcontractors and will be made a part of all subcontracts.

### **Article 3. Amendments**

All PGA amendments must be executed by both parties within the Grant Period specified in Article 1. Grant Time Period. The Sub-recipient must notify Capital Metro in writing before any changes to the PGA are made by describing the revision and explaining the need.

### **Article 4. Subcontracts**

The Sub-recipient shall not enter into any subcontract with individuals or organizations for the purchase of equipment or to provide professional services without prior authorization and consent to the subcontract by Capital Metro.

### **Article 5. Audit Requirements**

Sub-recipient shall meet or exceed the audit requirements outlined in Title 48, Code Federal Regulations (C.F.R.), Federal Acquisition Regulations (FAR). Unless permitted otherwise by Federal statute or regulation, Sub-recipient will comply with the U.S. Office of Management and Budget (OMB) Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations" for non-Federal entities that expend \$500,000 or more of federal assistance in a fiscal year (OMB Circular), as may be amended from time to time, and that comply with any regulations required by the U.S. Department of Transportation (DOT). Sub-recipient will provide a copy of the audit reports to Capital Metro along with any audit findings relevant to Sub-recipient's use of Federal Transit Administration (FTA) funds, along with a statement that clearly states the expected action of Sub-recipient to repay any disallowed costs, make financial adjustment, or take other action. Capital Metro may impose conditions on further funding based on such audit findings. In the event Sub-recipient fails to provide the required audits as required by this PGA, or the inability or unwillingness of Sub-recipient to have a required audit(s) as provided in this PGA, Capital Metro may:

- a. Withhold a percentage of the grant funds until the audit(s) is completed;
- b. Withhold any disallowed overhead costs;
- c. Suspend or condition further grant funding until the audit(s) is completed; or,
- d. Terminate the grant.

### **Article 6. Standards For Financial Administration**

The Sub-recipient's standards for financial administration must conform to the requirements of 49, C.F.R. Part 18.20.

## **Article 7. Procurement Standards**

Sub-recipient shall meet or exceed the procurement requirements of 48 C.F.R., FAR, 49 C.F.R. Part 18.36, and 49 C.F.R. Part 19 including, but not limited to, standards for competitive procurements; methods of procurement; contracting with small and minority firms, women's business enterprise and labor surplus area firms; contract cost and price; awarding agency review; insurance and bonding. The Sub-recipient's procurement system must include, but not be limited to, the following procurement standards:

- A. Procurement procedures must promote full and open competition while conforming to the applicable federal, state and local laws and regulations.
- B. A contract administration system that ensures that the contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- C. A written code of standards of conduct governing the performance of employees engaged in the award and administration of contracts under this PGA. No employee, officer, or agency of the Sub-recipient shall participate in selection or in the award or administration of a contract supported by state or federal funds if there is a conflict of interest, real or apparent.
- D. A process for review of proposed procurements to avoid purchase of unnecessary or duplicative items.
- E. Use of state and local intergovernmental agreements for procurement or use of common goods and services to foster greater economy and efficiency.
- F. Use of value engineering clauses in contracts for construction projects.
- G. A mechanism to make awards to only responsible contractors possessing the ability to perform successfully under the terms and conditions of the contract. The mechanism should provide assurances regarding the contractor's integrity, compliance with public policy, record of past performance, and financial and technical resources.
- H. Records sufficient to detail the significant history of procurement, including rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- I. Limited use of time-and-materials contracts.
- J. Mechanisms that use good administrative practices and sound business judgment to settle contractual and administrative issues arising out of procurements made in accordance with this PGA.
- K. Protest procedures to handle and resolve disputes relating to procurements. The protest procedure should provide a way to promptly disclose information regarding a protest to Capital Metro.
- L. If equipment or real property is transferred to a Sub-recipient, that equipment or real property shall be owned and operated in accordance with the same rules and regulations governing the ownership and operation of equipment or real property acquired with financial assistance from Capital Metro.
- M. The equipment and program provisions survive the contract duration.

## **Article 8. Property Management**

Capital Metro must agree to the award of all purchase orders for non-expendable personal property as defined in 49 C.F.R. §18.32 and §18.33. The Acquisition of real property must

comply with 49 C.F.R. §18.31.

## **Article 9. Equipment Management**

- A. Sub-recipient's Equipment Management standards shall include, but not be limited to the following:
1. Equipment records that include: a description of the equipment; a serial number or other identification number; the source of equipment; who holds title; the acquisition date and cost of the equipment; percentage of Federal participation in the cost of the equipment; the location, use and condition of the equipment; maintenance history for each vehicle; and ultimate disposition data including the date of disposal and sale price.
  2. Conducting a physical inventory of the equipment at least once every two (2) years and reconciling the inventory with equipment records described in the preceding paragraph.
  3. Developing a control system to ensure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft shall be investigated.
  4. Developing and following procedures to keep the equipment maintained and in good condition. At a minimum, the Sub-recipient shall follow the vehicle maintenance schedule recommended by the manufacturer, showing the date the maintenance was performed. Maintenance records shall be provided to Capital Metro upon request.
  5. Requesting disposition instructions from Capital Metro, and if authorized to sell the equipment, using proper sales procedures to ensure the highest possible return.
- B. The Sub-recipient will comply with FTA Circular 5010.1D, Grant Management Requirements and Title 43, Texas Administrative Code §31.53 and §31.55, to protect the public investment in real property and equipment purchased in whole or in part with state or federal funds.
- C. In the event that project equipment is not used in the proper manner or is withdrawn from public transportation services, the Sub-recipient shall immediately notify Capital Metro. Capital Metro reserves the right to direct the sale or transfer of property acquired under this PGA upon determination by Capital Metro that said property has not been fully or properly used upon termination of this PGA, or as otherwise allowed by applicable rules and regulations.
- D. All vehicles purchased under this PGA shall comply with the Motor Vehicle Safety Standards established by the US Department of Transportation and state law.
- E. Irrespective of coverage by insurance, unless otherwise approved in writing by Capital Metro, in the event of loss or damage to project property, whether by casualty or fire, the fair market value will be the value of the property immediately before the casualty or fire.
- F. The Sub-recipient shall notify Capital Metro immediately of theft, wreck, vandalism or other destruction of project-related facilities or equipment.

## **Article 10. Coordination**

According to Title 43 of the Texas Administrative Code §31.49, the Sub-recipient will at all times coordinate the provision of public transportation services with other transportation operators, both public and private, in the area. The Sub-recipient will furnish Capital Metro copies of any agreement resulting from such coordination. Agreements that authorize the payment of project funds to another entity are subject to the approval requirements described in

### **Article 11. Labor Protection Provisions**

The Sub-recipient will abide by the labor provisions outlined in Attachment C-1 and any other labor provisions required by federal law or regulations. If applicable, the Sub-recipient will comply with any of the labor protection provisions as listed below for the protection of employees in the mass passenger transportation industry in the area of the project:

- A.** The project shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees in the mass passenger transportation industry within the service area of the project.
- B.** All rights, privileges, and benefits (including pension rights and benefits) of employees (including employees already retired) shall be preserved and continued.
- C.** The Sub-recipient shall be financially responsible for any deprivation of employment or other worsening of employment position as a result of the project.
- D.** In the event an employee is terminated or laid off as a result of the project, he or she shall be granted priority of employment or reemployment to fill any vacant position for which he or she is, or by training or retraining can become, qualified. In the event training is required by such employment or reemployment, the Sub-recipient shall provide or provide for such training or retraining at no cost to the employee.
- E.** Any employee who is laid off or otherwise deprived of employment or placed in a worse position with respect to compensation, hours, working conditions, fringe benefits, or rights and privileges pertaining thereto at any time during his or her employment as a result of the project, including any program of efficiencies or economies directly or indirectly related thereto, shall be entitled to receive any applicable rights, privileges and benefits as specified in the employee protective arrangement certified by the Secretary of Labor under Section 405(b) of the Rail Passenger Service Act of 1970 on April 16, 1971. An employee shall not be regarded as deprived of employment or placed in a worse position with respect to compensation, etc., in case of his or her resignation, death, retirement, dismissal for cause, or failure to work due to disability or discipline. The phrase "as a result of the project" as used herein shall include events occurring in anticipation of, during, and subsequent to the project.
- F.** In the event any provision of these conditions is held to be invalid or otherwise unenforceable, the Sub-recipient, the employees or their representatives may invoke the jurisdiction of the Secretary of Labor to determine substitute fair and equitable employee protective arrangements which shall be incorporated in these conditions.
- G.** The Sub-recipient agrees that any controversy respecting the project's effects upon employees, the interpretation or application of these conditions and the disposition of any claim arising hereunder may be submitted by any party to the dispute including the employees or their representative for determination by the Secretary of Labor, whose decision shall be final.
- H.** The Sub-recipient shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the making of the decisions called for in the preceding paragraph.
- I.** The Sub-recipient will post, in a prominent and accessible place, a notice stating that the Sub-recipient is a recipient of federal assistance under the Federal Transit Act and has agreed to comply with the provisions of 49 U.S.C., Section 5333(b). The notice shall also specify the terms and conditions set forth herein for the protection of employees.

## **Article 12. Monitoring and Audits**

- A.** Capital Metro will monitor the progress of the project authorized in this PGA using appropriate and necessary inspections, including but not limited to periodic reports, physical inspection of project facilities, telephone conversations, letters, and conferences.
- B.** Capital Metro shall monitor and conduct financial and/or program audits of the Sub-recipient and its contractors to verify compliance with the terms of this PGA. Representatives of Capital Metro or Federal government shall have access to project facilities and audit the books and records relating to the project at all reasonable times.

## **Article 13. Reports**

- A.** The Sub-recipient shall submit written or electronic reports at intervals and in a format prescribed by Capital Metro.
  - 1. Quarterly Report -No later than twenty (20) calendar days after the end of the quarter, for which the report is made, the Sub-recipient shall submit an activity report to Capital Metro. At a minimum, the quarterly report will include the number of vehicles in operation; total unlinked passenger trips; total miles traveled; total expenses, including administrative and operating expenses; revenue, including fares and donations, operating expense per vehicle revenue mile; operating expense per unlinked passenger trip; and number of unlinked passenger trips per revenue mile traveled. Capital Metro may require more frequent operating reports for reasons of its own, or if the Sub-recipient does not provide the reports in a timely manner or if the reports indicate unfavorable trends.
  - 2. Status of Procurements -If the grant includes the purchase of vehicles or other capital equipment, the Sub-recipient shall submit a quarterly report consisting of a brief narrative including but not limited to procurement milestones, including date of purchase order, vendor name and location, and estimated delivery date.
  - 3. Status of Construction -If the grant includes construction, the Sub-recipient shall submit quarterly narrative reports which include but are not limited to the progress of construction.
- B.** Regardless of the type of assistance included in the grant, the Sub-recipient shall promptly notify Capital Metro, in writing, any time the progress of the project will be negatively or positively impacted, including:
  - 1. Problems, delays or adverse conditions that will materially affect the Sub-recipient's ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, by the Sub-recipient and any Capital Metro assistance needed to resolve the situation.
  - 2. Favorable developments or events that will enable the Sub-recipient to meet time schedules and goals sooner than anticipated or produce more work units than originally projected.
- C.** Every two (2) years, or more frequently when instructed by Capital Metro, the Sub-recipient shall conduct a physical inventory of grant-supported property as set forth in Article 9, Equipment Management, and furnish Capital Metro a copy of the inventory.
- D.** The Sub-recipient shall maintain written maintenance records for each grant-supported vehicle, and shall make such records available to Capital Metro upon request.

#### **Article 14. Disputes and Remedies**

- A.** The Sub-recipient shall be responsible for the settlement of all contractual and administrative issues arising out of procurements entered in support of the PGA.
- B.** Any dispute concerning the work hereunder, additional costs, or any other non-procurement issue shall be submitted for resolution by informal mediation, in accordance with the requirements of the Governmental Dispute Resolution Act, Chapter 2009, Government Code, unless the subject matter applies under Title 43, Texas Administrative Code §9.2.
- C.** This PGA shall not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

#### **Article 15. Termination**

- A.** Either Capital Metro or the Sub-recipient may terminate the PGA by giving thirty (30) days written notice for reasons of its own and not subject to the approval of the other party. In the event of termination for convenience, neither Capital Metro nor the Sub-recipient shall be subject to additional liability except as otherwise provided in this PGA.
- B.** If both parties to this agree that the continuation would not produce beneficial results commensurate with the further expenditure of funds, the parties shall agree upon the termination conditions, including the effective date. In the event that both parties agree that resumption of the PGA is warranted, a new PGA must be developed and executed by all parties.
- C.** Capital Metro may terminate this PGA at any time before the date of completion whenever it is determined that the Sub-recipient has failed to comply with the conditions of the PGA. Additionally, if Capital Metro notifies the Sub-recipient of a major deficiency and the Sub-recipient does not respond in the manner required by Capital Metro, Capital Metro will immediately terminate the PGAs, and direct the disposition of equipment purchased with grant funds, or both.
- D.** Upon termination of this PGA, whether for cause or at the convenience of the parties hereto, title to all property and equipment remains with the Sub-recipient subject to the obligations and conditions set forth in this PGA and 49 C.F.R. §18.31 and §18.32, unless the state or federal funding agency issue disposition instructions to the contrary.
- E.** In the event of termination, Capital Metro may compensate the Sub-recipient for those eligible expenses incurred during the grant periods that are directly attributable to the completed portion of the grant covered by the PGA, provided that the grant has been completed in accordance with the terms of the PGA. The Sub-recipient shall not incur new obligations for the terminated portion after the effective date of termination.
- F.** Except with respect to defaults of subcontractors, the Sub-recipient shall not be in default by reason of any failure in performance of this PGA in accordance with its terms (including any failure by the Sub-recipient to progress in the performance of the work) if such failure arises out of causes beyond the control and without the default or negligence of the Sub-recipient. Such causes may include but are not limited to acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather. In every case, however, the failure to perform must be beyond the control and without the fault or negligence of the Sub-recipient.



## **Article 16. Disadvantaged Business Enterprise (DBE) Program Requirements for Public Transportation Contracts**

It is the policy of the United States Department of Transportation (USDOT) that Disadvantaged Business Enterprises (DBE) as defined in 49 C.F.R. Part 26 shall have the opportunity to participate in the performance of contracts financed in whole or in part with federal funds. Consequently, the DBE and Capital Metro's DBE program requirements of 49 C.F.R. Part 26 apply to this contract as follows:

- A.** The Sub-recipient and any subcontractor will strive to meet the annual DBE goal by offering DBEs, as defined in 49 C.F.R. Part 26, Subpart A, the opportunity to compete fairly for contracts and subcontracts. DBE participation shall be reported monthly.
- B.** The Sub-recipient and any subcontractor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts.
- C.** These requirements shall be physically included in any subcontract.
- D.** Failure to carry out the requirements set forth above shall constitute a material breach of this contract and may, after the notification of Capital Metro, result in termination of the contract by Capital Metro or other such remedy as Capital Metro deems appropriate.

## **Article 17. Prohibited Activities**

In accordance with this PGA, the Sub-recipient, including any member, employee, agent, or contractor shall adhere to Federal Fiscal Year Certifications and Assurances for Federal Transit Administration Assistance Programs. Failure on the part of the Sub-recipient to adhere to this policy and requirements may result in the termination of this PGA.

## **Article 18. Open Meetings**

If applicable, the Sub-recipient will comply with Texas Government Code, Chapter 551, which requires all regular, special or called meetings of governmental bodies to be open to the public, except as otherwise provided by law or specifically permitted in the Texas Constitution.

## **Article 19. Indemnification**

- A.** To the extent permitted by law, the Sub-recipient shall indemnify and save harmless Capital Metro from all claims and liability due to activities of its agents, employees or volunteers performed under this PGA and which result from an error, omission, intentional, reckless, or negligent act of the Sub-recipient or of any person employed by the Sub-recipient.
- B.** To the extent permitted by law, the Sub-recipient shall also save harmless Capital Metro from any and all expenses, including attorney fees, which might be incurred by Capital Metro in litigation or otherwise resisting said claim or liabilities which might be imposed on Capital Metro as a result of activities by the Sub-recipient, its agents, employees or volunteers.
- C.** The Sub-recipient acknowledges that it is not an agent, servant or employee of Capital Metro and that it is responsible for its own acts and deeds and for those of its agents, employees or volunteers during the performance of the PGA.

## **Article 20. Compliance with Laws**

The Sub-recipient shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this grant, including without limitation workers' compensation laws, minimum and maximum salary and wage statutes and regulations, nondiscrimination laws and regulations, licensing laws, regulations, and the Texas Uniform Grant Management Standards. When required, the Sub-recipient shall furnish Capital Metro with satisfactory proof of compliance therewith.

## **Article 21. Non-Collusion**

The Sub-recipient warrants that it has not employed or retained any company or person, other than a bona fide employee working for the firm, to solicit or secure this grant, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration contingent upon or resulting from the award or making of this grant. If the Sub-recipient breaches or violates this warranty, Capital Metro shall have the right to annul this PGA without liability or, in its discretion, to deduct from the grant price or consideration, or otherwise recover, the full amount of such fee, commission, brokerage fee, gift, or contingent fee.

## **Article 22. Civil Rights**

- A. Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. §2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. §12132, and federal transit law at 49 U.S.C. §5332, the Sub-recipient agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Sub-recipient agrees to comply with applicable federal implementing regulations and other implementing requirements FTA may issue.
- B. Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the underlying contract:
  - 1. **Race, Color, Creed, National Origin, Sex** -In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. §2000e, and federal transit laws at 49 U.S.C. §5332, the Sub-recipient agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (US. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. §2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the Project. The Sub-recipient agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. 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 Sub-recipient agrees to comply with any implementing requirements FTA may issue.

2. Age Discrimination - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §623 and federal transit law at 49 U.S.C. §5332, the Sub-recipient agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Sub-recipient agrees to comply with any implementing requirements FTA may issue.
  3. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. §12112, the Sub-recipient agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Sub-recipient agrees to comply with any implementing requirements FTA may issue.
- C. The Sub-recipient also agrees to include these requirements in each subcontract financed in whole or in part with federal assistance provided by FTA, modified only if necessary to identify the affected parties.

### **Article 23. Non-Discrimination on the Basis of Disability**

The Sub-recipient agrees that no otherwise qualified person with disability(s) shall, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under the project. The Sub-recipient shall ensure that all fixed facility construction or alteration and all new equipment included in the project comply with applicable regulations set forth at 49 C.F.R. Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance, and the Americans with Disabilities Act.

### **Article 24. Program Income**

- A. Except for income from royalties and proceeds from the sale of real property or equipment, the Sub-recipient shall retain program income and apply such income to allowable capital or operating expenses. If federally funded, Program Income from royalties and proceeds from sale of real property or equipment shall be handled as specified in Federal Provisions.
- B. The Sub-recipient shall comply with standards governing the receipt and application of program income as set forth in 49 C.F.R. §18.25, Program Income. Program income means gross income received by the Sub-recipient directly generated by a grant supported activity, or earned only as a result of this PGA during the time period specified in Grant Period.
- C. Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under a PGA, and from payments of principal and interest on loans made with grant funds. Except as otherwise provided in federal regulations, program income does not include interest on grant funds, rebates, credits discounts, refunds, etc., and interest earned on any of them.

### **Article 25. SPECIAL PROVISIONS**

1. The Sub-recipient certifies that the Sub-recipient is not suspended or debarred from receiving federal funds and there are no pending proceedings for suspension or debarment. Further, the Sub-recipient represents that it is not named on any list of suspended or debarred entities as shown on any list maintained by the U.S. government (Debarment List) and has not

been on any such list for the last three years. The Sub-recipient may not subcontract with any entity that is suspended or debarred from receiving federal fund as listed on any Debarment List or has been on any such list in the last three years. The Sub-recipient must verify that such entity (and its principals as defined in 2 CFR 180.995) is not suspended or debarred from receiving federal funds (nor are there pending proceedings to do so) and that such entity or its principals are not named on any Disbarment List, that such entity (or its principals) has not been on any such list for the last three years, and Sub-recipient shall maintain documentation of verification of compliance. The verification may be accomplished by (1) checking the System for Award Management (SAM) maintained by the U.S. General Services Administration (GSA) and available at [www.sam.gov/portalpublic/sam](http://www.sam.gov/portalpublic/sam), or (2) collecting a certification from the entity.

2. The Sub-recipient shall obtain a Data Universal Numbering System (DUNS) number as set forth in 2 CFR 25 and provide such number to Capital Metro.

3. The Sub-recipient shall at all times comply with applicable FTA and other federal regulations, policies and directive as relates to federal grant awards, as they may be amended or promulgated from time to time during the term of this PGA. Failure to do so may result in the termination of the grant.

4. All FTA and other federal mandated terms shall be deemed to control in the event of a conflict with any provisions contained in this PGA. Sub-recipient shall not perform any act, fail to conform, or refuse to comply with any requests necessary for Capital Metro to comply with federal laws and regulations, as may be amended from time to time.

5. The Sub-recipient shall furnish to Capital Metro an annual federal fiscal year certification and assurance affirmation as required by the FTA. The 2013 Federal Fiscal Year Certifications and Assurances for Federal Transit Administration Assistance Programs may be accessed at the following link: [http://www.fta.dot.gov/documents/2013 - Certifications and Assurances.pdf](http://www.fta.dot.gov/documents/2013_-_Certifications_and_Assurances.pdf). Sub-recipient shall execute an Affirmation in the form attached as Attachment D-1 and provide such Affirmation to Capital Metro simultaneously with the execution of this PGA and annually thereafter in the form established by the FTA.

6. The Sub-recipient shall specifically comply with the federal contracting requirements as set forth in the Federal Transit Administration Master Agreement (Master Agreement) which may be accessed at the following link: <http://www.fta.dot.gov/documents/18-Master.pdf>.

## **Article 26. SUCCESSORS AND ASSIGNS**

The Sub-recipient binds itself, its successors, assigns, executors and administrators in respect to all covenants of this PGA. The Sub-recipient shall not sign, sublet or transfer their interest in this PGA without the written consent of Capital Metro.

## **Article 27. LEGAL CONSTRUCTION**

In case any one or more of the provisions contained in this PGA shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof and this PGA shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. All Attachments referenced herein are incorporated herein for all purposes. This PGA may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement. Facsimile signatures shall be deemed an original signature for all purposes. For purposes of this paragraph, the phrase "facsimile signature" includes without limitation, an image of an original signature made by an electronic scanner.

**Article 28. PRIOR AGREEMENTS**

This PGA constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the public transportation grant specifically authorized and funded under this PGA.

**Article 29. RECITALS**

The Recitals on Page 1 of this PGA are incorporated herein for all purposes.

**Article 30. SIGNATORY WARRANTY**

The undersigned signatory for the Sub-recipient hereby represents and warrants that he or she is an officer of the organization for which he or she has executed this PGA and that he or she has full and complete authority to enter into this PGA on behalf of the organization.

**IN TESTIMONY WHEREOF**, the Parties have caused these presents to be executed in duplicate counterparts.

**Capital Metropolitan  
Transportation Authority**

By: \_\_\_\_\_

Linda S. Watson  
President/CEO

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

**The City of Round Rock**

By: \_\_\_\_\_

Name: Alan McGraw  
Title: Mayor

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

Approved:

\_\_\_\_\_  
Finance

Approved as to form:

\_\_\_\_\_  
Legal

## **ATTACHMENT A-1**

### **APPROVED PROJECT DESCRIPTION**

Implementation of a peak-hour job access and reverse commuter service, to provide transit access to employment for low-income and/or disabled transit dependent individuals and choice riders between Austin and Round Rock. The service will begin by serving one employer – Sears Teleserv with possible future expansion to other employers. . The project will also provide transit enhancements and will incorporate the procurement and use of two, ADA accessible, buses to provide this service. The service will close a service gap, allowing transit users who live in Austin to access employment in Round Rock.

An exact schedule will be set and outreach conducted, to the employees of Sears Teleserv, prior to implementation of the service. The schedule will target those employees with shift start times from 7:00 a.m. – 8:30 a.m. and shift end times from 4:00 p.m. – 5:30 p.m. It is expected that there will be four arrivals in the morning and four departures in the afternoon.

Round Rock is to contract service, by means of a turnkey contract (80% of 50%), to provide a peak-hour job access commute and reverse commute bus service between Austin and Round Rock, (from TECHRIDGE Park & Ride to Sears Teleserv) where no service exists, which will provide access to jobs for low income and/or disabled transit dependent, and `choice riders` per their attached approved project proposal.

## ATTACHMENT B-1

### APPROVED PROJECT BUDGET

Total Project Cost: \$377,771

Total Federal Funds: **\$302,216**

Capital Assistance for Operating

ALI Code: 11.71.12 – Capital Cost of 3<sup>rd</sup> Party Contracting

**80% = JARC Federal: \$141,162**

20% = local match: \$35,291

Round Rock to contract service, by means of a turnkey contract (80% of 50%), to provide a peak-hour job access commute and reverse commute bus service between Austin and Round Rock, (from TECHRIDGE Park & Ride to Sears Teleserv) where no service exists, which will provide access to jobs for low income and/or disabled transit dependent, and `choice riders` per their attached approved project proposal.

Capital Assistance

ALI Code: 11.93.02 – Bus Shelter Transit Enhancements

**80% = JARC Federal: \$11,675**

20% = local match: \$2,919

Round Rock will provide one sign, one bench, and a trash can in the Sears Teleserv common areas and CMTA will be providing public transit clocks at the TECHRIDGE Park & Ride.

Capital Assistance

ALI Code: 11.13.04 –Bus-Rolling Stock

**80% = JARC Federal: \$149,379**

20% = local match: \$37,345

Round Rock`s will be procuring bus(es) for providing the job access commute and reverse commute services between Austin and Round Rock amenities as referenced in their attached approved project proposal.

**Total JARC Federal Funds: \$302,216**

## ATTACHMENT C-1

### DEPARTMENT OF LABOR TERMS AND CONDITIONS

#### DAVIS BACON ACT (40 USC § 3141-3144, 3146, and 3147 (2002))

(The language in this clause is mandated under the DOL regulations at 29 C.F.R. § 5.5 (2013))

- (1) Minimum wages. (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

- (ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- ( 1 ) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- ( 2 ) The classification is utilized in the area by the construction industry; and



- ( 3 ) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
- (2) Withholding. The (write in name of Federal Agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the

project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

- (3) Payrolls and basic records. (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
- (ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee ( e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

- (B) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
- ( 1 ) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
  - ( 2 ) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
  - ( 3 ) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (a)(3)(ii)(B) of this section.
- (D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
- (iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
- (4) Apprentices and trainees —(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not

registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

- (5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- (6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
- (7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- (8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
- (9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
- (10) Certification of eligibility. (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
  - (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
  - (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.
- (b) Contract Work Hours and Safety Standards Act. The Agency Head shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by § 5.5(a) or 4.6 of part 4 of this title. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.
- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.
- (c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in § 5.1, the Agency Head shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor 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 contract 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 classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job. DAVIS-BACON ACT (40 USC &167; 276a - 276a-5 (1998) 29 CFR § 5 (1999))

(The language in this clause is mandated under the DOL regulations at 29 C.F.R. § 5.5.)

(a) **Minimum wages**

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

(2)

(i) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(A) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and

(B) The classification is utilized in the area by the construction industry; and

(C) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(D) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(ii) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer

to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

(iv) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of 29 CFR 5.5, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(3) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(4) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(5) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) **Withholding** - The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the



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

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

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

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

(i) That the payroll for the payroll period contains the information required to be maintained under 29 CFR part 5 and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly

wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of 29 CFR 5.5.

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

(i) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of 29 CFR 5.5 available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(d) **Apprentices and trainees**

(1) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

(e) **Compliance with Copeland Act requirements** - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

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

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

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

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

(j) **Certification of eligibility**

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

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

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

## ATTACHMENT D-1

### FEDERAL FISCAL YEAR 2013 CERTIFICATIONS AND ASSURANCES FOR FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS

(SIGNATURE PAGE ALTERNATIVE TO PROVIDING CERTIFICATIONS AND ASSURANCES IN TEAM-WEB)

NAME OF APPLICANT: \_\_\_\_\_

THE APPLICANT AGREES TO COMPLY WITH APPLICABLE PROVISIONS OF GROUPS 01 – 24. \_\_\_\_\_

OR

THE APPLICANT AGREES TO COMPLY WITH APPLICABLE PROVISIONS OF THE GROUPS IT HAS SELECTED:

#### GROUP DESCRIPTION

- |     |   |       |
|-----|---|-------|
| 01. | REQUIRED CERTIFICATIONS AND ASSURANCES FOR EACH APPLICANT.  | _____ |
| 02. | LOBBYING.   | _____ |
| 03. | PRIVATE SECTOR PROTECTIONS.   | _____ |
| 04. | PROCUREMENT AND PROCUREMENT SYSTEM.   | _____ |
| 05. | ROLLING STOCK REVIEWS AND BUS TESTING.  | _____ |
| 06. | DEMAND RESPONSIVE SERVICE.  | _____ |
| 07. | INTELLIGENT TRANSPORTATION SYSTEMS.   | _____ |
| 08. | INTEREST AND FINANCE COSTS AND LEASING COSTS.   | _____ |
| 09. | TRANSIT ASSET MANAGEMENT AND AGENCY SAFETY PLANS.   | _____ |
| 10. | ALCOHOL AND CONTROLLED SUBSTANCES TESTING.  | _____ |
| 11. | FIXED GUIDEWAY CAPITAL INVESTMENT PROGRAM (NEW STARTS, SMALL STARTS, AND CORE CAPACITY) AND CAPITAL INVESTMENT PROGRAM IN EFFECT BEFORE MAP-21. | _____ |
| 12. | STATE OF GOOD REPAIR PROGRAM.   | _____ |
| 13. | FIXED GUIDEWAY MODERNIZATION GRANT PROGRAM.   | _____ |
| 14. | BUS/BUS FACILITIES PROGRAMS.  | _____ |
| 15. | URBANIZED AREA FORMULA PROGRAMS AND JOB ACCESS AND REVERSE COMMUTE (JARC) PROGRAM   | _____ |
| 16. | SENIORS/ELDERLY/INDIVIDUALS WITH DISABILITIES PROGRAMS AND NEW FREEDOM PROGRAM.   | _____ |
| 17. | RURAL/OTHER THAN URBANIZED AREAS/APPALACHIAN DEVELOPMENT/ OVER-THE-ROAD BUS ACCESSIBILITY PROGRAMS  | _____ |
| 18. | PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS AND "TRIBAL TRANSIT PROGRAMS.  | _____ |
| 19. | LOW OR NO EMISSION/CLEAN FUELS GRANT PROGRAMS.  | _____ |
| 20. | PAUL S SARBANES TRANSIT IN PARKS PROGRAM.   | _____ |
| 21. | STATE SAFETY OVERSIGHT PROGRAM.   | _____ |
| 22. | PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.   | _____ |

23. EXPEDITED PROJECT DELIVERY PILOT PROGRAM. \_\_\_\_\_

24. INFRASTRUCTURE FINANCE PROGRAMS. \_\_\_\_\_

**AFFIRMATION OF APPLICANT**

(REQUIRED OF ALL APPLICANTS FOR FTA FUNDING AND ALL FTA GRANTEES WITH AN ACTIVE CAPITAL OR FORMULA PROJECT)

NAME OF APPLICANT \_\_\_\_\_

NAME AND RELATIONSHIP OF AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

BY SIGNING BELOW, ON BEHALF OF THE APPLICANT, I DECLARE THAT THE APPLICANT HAS DULY AUTHORIZED ME TO MAKE THESE CERTIFICATIONS AND ASSURANCES AND BIND THE APPLICANT'S COMPLIANCE. THUS, THE APPLICANT AGREES TO COMPLY WITH ALL FEDERAL STATUTES AND REGULATIONS, AND 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 2013, IRRESPECTIVE OF WHETHER THE INDIVIDUAL THAT ACTED ON ITS APPLICANT'S BEHALF CONTINUES TO REPRESENT THE APPLICANT.

FTA INTENDS THAT THE CERTIFICATIONS AND ASSURANCES THE APPLICANT SELECTS ON THE OTHER SIDE OF THIS DOCUMENT SHOULD APPLY, AS PROVIDED, TO EACH PROJECT FOR WHICH THE APPLICANT SEEKS NOW, OR MAY LATER SEEK FTA FUNDING DURING FEDERAL FISCAL YEAR 2013.

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, 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 APPLICANT'S ATTORNEY

FOR (NAME OF APPLICANT): \_\_\_\_\_

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 FOREGOING 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 ITS FTA PROJECT OR PROJECTS.

SIGNATURE \_\_\_\_\_ DATE: \_\_\_\_\_

NAME \_\_\_\_\_  
ATTORNEY FOR APPLICANT

EACH APPLICANT FOR FTA FUNDING AND EACH FTA GRANTEE WITH AN ACTIVE CAPITAL OR FORMULA PROJECT MUST PROVIDE AN AFFIRMATION OF APPLICANT'S ATTORNEY PERTAINING TO THE APPLICANT'S LEGAL CAPACITY. THE APPLICANT MAY ENTER ITS SIGNATURE IN LIEU OF THE ATTORNEY'S SIGNATURE, PROVIDED THE APPLICANT HAS ON FILE THIS AFFIRMATION, SIGNED BY THE ATTORNEY AND DATED THIS FEDERAL FISCAL YEAR.