

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

MASTER AGREEMENT

**For Federal Transit Administration Agreements authorized by
49 U.S.C. chapter 53, Title 23, United States Code (Highways),
the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users,
the Transportation Equity Act for the 21st Century, as amended,
the National Capital Transportation Act of 1969, as amended,
or other Federal laws that FTA administers.**

**FTA MA(14)
October 1, 2007**

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

MASTER AGREEMENT

This is the official Federal Transit Administration Master Agreement containing standard terms and conditions governing the administration of a Project supported with Federal assistance awarded by the Federal Transit Administration (FTA) through a Grant Agreement or Cooperative Agreement with the Recipient, or supported by FTA through a Transportation Infrastructure Loan, Loan Guarantee, or Line of Credit with the Recipient. This Master Agreement applies to Federal assistance authorized by Federal public transportation laws at 49 U.S.C. chapter 53 or Title 23, United States Code (Highways); the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109 -59, Aug. 10, 2005; the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, June 9, 1998, as amended, the National Capital Transportation Act of 1969, D.C. Official Code, §§ 9-1111.01 *et seq.*, or other Federal legislation FTA administers to the extent FTA so determines.

FTA and the Recipient understand and agree that not every provision of this Master Agreement will apply to every Recipient or every Project for which FTA provides Federal assistance through a Grant Agreement or Cooperative Agreement. The type of Project, the Federal laws and regulations authorizing Federal assistance for the Project, and the legal status of the Recipient as a “State,” “local government,” private non-profit entity, or private for-profit entity will determine which Federal laws, regulations, and directives apply. Federal laws, regulations, and directives that do not apply will not be enforced. Nevertheless, the Recipient understands and agrees that it must comply with all applicable Federal laws, regulations, and directives, except to the extent that FTA determines otherwise in writing. Any violation of a Federal law, regulation, or directive applicable to the Recipient or its Project may result in penalties to the violating party.

This Master Agreement does not have an Expiration Date. The provisions of this Master Agreement will continue to apply to the Project unless or until modified or superseded by subsequent Federal laws, regulations, or directives, or subsequent Grant Agreements, Cooperative Agreements, or Master Agreements.

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

Section 1. Definitions.

a. Application means the signed and dated request for Federal assistance, including any amendment thereto, with all explanatory, supporting, and supplementary documents filed with FTA by or on behalf of the Recipient and accepted or approved by FTA.

b. Approval, Authorization, Concurrence, Waiver means a conscious written statement (transmitted in typewritten hard copy or electronically) of a Federal Government official authorized to permit the Recipient to take or omit an action required by the Grant Agreement or Cooperative Agreement for the Project, or this Master Agreement, which action may not be taken or omitted without such permission. Except to the extent that FTA determines otherwise in writing, such approval, authorization, concurrence, or waiver permitting the performance or omission of a specific action does not constitute permission to perform or omit other similar actions. An oral permission or interpretation has no legal force or effect.

c. Approved Project Budget means the most recent statement of the costs of the Project, the maximum amount of Federal assistance for which the Recipient is currently eligible, the specific tasks (including specific contingencies) covered, and the estimated cost of each task that has been approved by FTA. As used in the "Approved Project Budget," the term "Scopes" means categories and the term "Scope Level Codes" means category codes. Although "Scopes" and "Scope Level Codes" generally indicate the type of activities encompassed by the Project, the data listed under "Scopes" and "Scope Level Codes" (for example), do not necessarily reflect, and are not intended to be treated as, prima facie evidence of the precise limits or boundaries of a Project, except to the extent that FTA determines otherwise in writing. FTA reserves the right to consider other information in determining what constitutes the "Scope of the Project" when that term is used for legal purposes.

d. Cooperative Agreement means an instrument by which FTA awards Federal assistance to a specific Recipient to support a particular Project in which FTA takes an active role or retains substantial control, as set forth in 31 U.S.C. § 6305. The Cooperative Agreement consists of the FTA Award establishing the specific parameters of the Project, an Execution statement signed by the Recipient, and may include additional Special Conditions, Special Requirements, or Special Provisions. This Master Agreement is incorporated by reference and made part of the Cooperative Agreement.

e. Federal Directive, for purposes of this Master Agreement, includes any Executive Order of the President of the United States, and any Federal document, irrespective of whether it takes the form of a published policy, administrative practice, circular, guideline, guidance document, or letter signed by the head of a Federal agency or his or her designee, that provides instructions concerning a Federal program, including application processing procedures, program management, or other similar matters. The term "Federal Directive" encompasses "FTA Directives," "U.S. DOT Directives," and similar documents issued by other agencies of the Federal Government.

f. Federal Government means the United States of America and any executive department or agency thereof.

g. Federal Transit Administration designates the former Urban Mass Transportation Administration. Any reference in any law, map, regulation, document, paper, or other record of the United States to the Urban Mass Transportation Administration is deemed a reference to the Federal Transit Administration.

- h. Federal Transit Administrator designates the former Urban Mass Transportation Administrator. Any reference in any law, map, regulation, document, paper, or other record of the United States to the Urban Mass Transportation Administrator is deemed a reference to the Federal Transit Administrator.
- i. FTA is the acronym for the Federal Transit Administration, an operating administration of the U.S. Department of Transportation (U.S. DOT). “FTA” replaces the acronym “UMTA.”
- j. Grant Agreement means the instrument by which FTA awards Federal assistance to a specific Recipient to support a particular Project in which FTA does not take an active role or retain substantial control, as set forth in 31 U.S.C. § 6304. The Grant Agreement consists of the FTA Award establishing the specific parameters of the Project, an Execution statement signed by the Recipient, and may include additional Special Conditions, Special Requirements, or Special Provisions. This Master Agreement is incorporated by reference and made part of the Grant Agreement.
- k. Local Government includes a public transportation authority, as well as a county, municipality, city, town, township, special district, council of governments, public corporation, board, or commission established under the laws of a State (whether or not incorporated as a private nonprofit organization under State law), regional or interstate government entity, Indian tribe, or any agency or instrumentality thereof.
- l. Project means the activity or activities (task or tasks) listed in Project Description, the Approved Project Budget, and any modifications set forth in the Conditions of Award in the Grant Agreement or Cooperative Agreement for the Project, and any other Special Conditions, Special Requirements, or Special Provisions applicable to the Project. To the extent that a Recipient is required by any provision of 49 U.S.C. chapter 53 to prepare a “Program of Projects,” for purposes of this Master Agreement, the term “Project” encompasses both “Program” and “each Project within the Program,” as the context may require. For a Loan, Loan Guarantee, or Line of Credit financed with Federal assistance authorized under the Transportation Infrastructure Finance and Innovation Act of 1998, as amended, 23 U.S.C. §§ 601 through 609, “Project” means the transportation activities financed by that Loan, Loan Guarantee, or Line of Credit. For purposes of legal interpretations and other matters, FTA reserves the right to consider information apart from the data listed in FTA’s electronic management system under “Scopes” and “Scope Level Codes” of the “Approved Project Budget” to determine what constitutes the Scope of the Project or eligible project activities.
- m. Public Transportation means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include schoolbus, charter, or intercity bus transportation or intercity passenger rail transportation provided by the entity described in 49 U.S.C. chapter 243 (Amtrak or a successor to Amtrak). The term “public transportation” also includes “mass transportation” and “transit.”
- n. Recipient means the entity that receives Federal assistance directly from FTA to support the Project. The term “Recipient” includes each “Grant Recipient” or “Grantee” that receives

Federal assistance directly from FTA through a Grant and each Recipient that receives Federal assistance directly from FTA through a Cooperative Agreement. Even if a single organization within a legal entity is designated the Recipient in the Grant Agreement or Cooperative Agreement, the entire legal entity is the Recipient, except to the extent that FTA has determined otherwise in writing. Thus, unless FTA has determined otherwise in writing, if the Recipient is a consortium, partnership, or other multi-party entity, each participant in, member of, or party to that consortium, partnership, or multi-party entity is deemed a “Recipient” for purposes of compliance with applicable requirements of the Grant Agreement or Cooperative Agreement for its Project.

o. Subagreement means an agreement through which a Recipient awards Federal assistance derived from FTA to a subrecipient as defined below. The term “subagreement” also includes the term “subgrant,” but does not include the term “third party subcontract.”

p. Subrecipient means any entity that receives Federal assistance awarded by an FTA Recipient, rather than by FTA directly. The term “subrecipient” also includes the term, “subgrantee,” but does not include “third party contractor” or “third party subcontractor.”

q. Third Party Contract means a contract or purchase order awarded by the Recipient or subrecipient to a vendor or contractor, financed in whole or in part with Federal assistance awarded by FTA.

r. Third Party Subcontract means a subcontract at any tier financed in whole or in part with Federal assistance originally derived from FTA that is entered into by the third party contractor or third party subcontractor.

s. U.S. DOT is the acronym for the United States Department of Transportation, including its operating administrations.

Section 2. Project Implementation.

a. General. The Recipient agrees to carry out the Project as follows:

(1) Project Description. Because the “Project Description” in the FTA Award section of the Grant Agreement or Cooperative Agreement provides only a brief description of the Project or Projects to be funded, the Recipient agrees to perform the work as described in the “Project Description” and in its Application that is incorporated by reference in the approved Grant Agreement or Cooperative Agreement for the Project.

(2) Effective Date. The effective date of the Grant Agreement, Cooperative Agreement, or Amendment thereto is the date on which the FTA Authorized Official awards Federal assistance as shown on the Grant Agreement, Cooperative Agreement, or Amendment thereto. The Recipient agrees to undertake Project work promptly after receiving notice that FTA has awarded Federal assistance for the Project.

(3) Recipient's Capacity. The Recipient agrees to maintain or acquire sufficient legal, financial, technical, and managerial capacity to: (a) plan, manage, and complete the Project and provide for the use of Project property; (b) carry out the safety and security aspects of the Project and (c) comply with the terms of the Grant Agreement or Cooperative Agreement providing Federal assistance for the Project, this Master Agreement, the Approved Project Budget, the Project schedules, the Recipient's annual Certifications and Assurances to FTA, and all applicable Federal laws, regulations, and directives pertaining to the Project and the Recipient, except to the extent that FTA determines otherwise in writing.

(4) Completion Dates. The Recipient agrees to complete the Project in a timely manner. Nevertheless, except in the case of a Full Funding Grant Agreement or as otherwise specified, FTA and the Recipient agree that milestone dates and other Project completion dates are to be treated as good faith estimates rather than precise and firm legal requirements.

b. U.S. DOT Administrative Requirements. The Recipient agrees to comply with the Federal administrative requirements that apply to the category in which it belongs:

(1) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 C.F.R. Part 18, apply to a Recipient that is a State, local, or Indian tribal government.

(2) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," 49 C.F.R. Part 19, apply to a Recipient that is an institution of higher education or a nonprofit organization.

(3) Except to the extent that FTA determines otherwise in writing, U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations," 49 C.F.R. Part 19, apply to a Recipient that is a private for-profit organization.

c. Application of Federal, State, and Local Laws, Regulations, and Directives.

(1) Federal Laws, Regulations, and Directives. The Recipient agrees that Federal laws and regulations control Project award and implementation. The Recipient also agrees that Federal directives, as defined in this Master Agreement, set forth Federal terms applicable to the Project, except to the extent that FTA determines otherwise in writing. Thus, FTA strongly encourages adherence to applicable Federal directives. The Recipient understands and agrees that unless FTA has provided express written approval of an alternative procedure or course of action differing from a procedure or course of action set forth in the applicable Federal directive, the Recipient may incur a violation of the terms of its Grant Agreement or Cooperative Agreement or this Master Agreement if it implements an alternative procedure or course of action not approved by FTA.

The Recipient understands and agrees that Federal laws, regulations, and directives applicable to the Project and to the Applicant on the date on which the FTA Authorized Official awards

Federal assistance for the Project may be modified from time to time. In particular, new Federal laws, regulations, and directives may become effective after the date on which the Recipient executes the Grant Agreement or Cooperative Agreement for the Project, and might apply to that Grant Agreement or Cooperative Agreement. The Recipient agrees that the most recent of such Federal laws, regulations, and directives will govern the administration of the Project at any particular time, except to the extent that FTA determines otherwise in writing.

FTA's written determination may take the form of a Special Condition, Special Requirement, Special Provision, or Condition of Award within the Grant Agreement or Cooperative Agreement for the Project, a change to an FTA directive, or a letter to the Recipient signed by the Federal Transit Administrator or his or her duly authorized designee, the text of which modifies or otherwise conditions a specific provision of the Grant Agreement or Cooperative Agreement for the Project or this Master Agreement. To accommodate changing Federal requirements, the Recipient agrees to include in each agreement with each subrecipient and each third party contract implementing the Project notice that Federal laws, regulations, and directives may change and that the changed requirements will apply to the Project, except to the extent that FTA determines otherwise in writing. All standards or limits in the Grant Agreement or Cooperative Agreement for the Project, and in this Master Agreement are minimum requirements, unless modified by FTA.

(2) State, Territorial, and Local Law. Should a Federal law pre-empt a State, territorial, or local law, regulation, or ordinance, the Recipient must comply with the Federal law and implementing regulations. Nevertheless, no provision of the Grant Agreement or Cooperative Agreement for the Project, or this Master Agreement requires the Recipient to observe or enforce compliance with any provision, perform any other act, or do any other thing in contravention of State, territorial, or local law, regulation, or ordinance. Thus if compliance with any provision of the Grant Agreement or Cooperative Agreement for the Project, or this Master Agreement violates or would require the Recipient to violate any State, territorial, or local law, regulation, or ordinance, the Recipient agrees to notify FTA immediately in writing. Should this occur, FTA and the Recipient agree that they will make appropriate arrangements to proceed with or, if necessary, terminate the Project expeditiously.

d. Recipient's Primary Responsibility to Comply with Federal Requirements. Irrespective of involvement by any other entity in the Project, the Recipient agrees that it, rather than any other entity, is ultimately responsible for compliance with all applicable Federal laws, regulations, and directives, this Master Agreement, and the underlying Grant Agreement or Cooperative Agreement for the Project, except to the extent that FTA determines otherwise in writing.

(1) Significant Participation by a Subrecipient. Although the Recipient may delegate any or almost all Project responsibilities to one or more subrecipients, the Recipient agrees that it, rather than any subrecipient, is ultimately responsible for compliance with all applicable Federal laws, regulations, and directives, except to the extent that FTA determines otherwise in writing.

(2) Significant Participation by a Lessee of a Recipient. Although the Recipient may lease Project property and delegate some or many Project responsibilities to one or more lessees, the Recipient agrees that it, rather than any lessee, is ultimately responsible for compliance with all

applicable Federal laws, regulations, and directives, except to the extent that FTA determines otherwise in writing.

(3) Significant Participation by a Third Party Contractor. Although the Recipient may enter into a third party contract in which the third party contractor agrees to provide property or services in support of the Project, or even carry out Project activities normally performed by the Recipient (such as in a turnkey contract), the Recipient agrees that it, rather than the third party contractor, is ultimately responsible to FTA for compliance with all applicable Federal laws, regulations, and directives, except to the extent that FTA determines otherwise in writing.

(4) Exceptions. The Recipient, however, is relieved of the requirement to comply with Federal requirements in the following two circumstances:

(a) When the Designated Recipient of Urbanized Area Formula Program assistance as defined at 49 U.S.C. § 5307(a)(2) has entered into a Supplemental Agreement with FTA and a Grant Recipient or Grantee covering the Project, the Designated Recipient is not responsible for compliance with Federal requirements in connection with the Project, or

(b) When the Federal Government, through appropriate official action, relieves the Recipient of a portion of or all responsibility to the Federal Government.

e. Recipient's Responsibility to Extend Federal Requirements to Other Entities.

(1) Entities Affected. Only entities that are signatories to the Grant Agreement or Cooperative Agreement for the Project are parties to that Grant Agreement or Cooperative Agreement. To achieve compliance with certain Federal laws, regulations, or directives, however, other entities participating in the Project through their involvement with the Recipient, (such as a subrecipient, lessee, third party contractor, or other) will necessarily be affected. Accordingly, the Recipient agrees to take appropriate measures necessary to ensure that all Project participants comply with all applicable Federal laws, regulations, and directives affecting Project implementation, except to the extent FTA determines otherwise in writing. In addition, if an entity other than the Recipient is expected to fulfill any responsibilities typically performed by the Recipient, the Recipient agrees to assure that the entity carries out the Recipient's responsibilities as set forth in the Grant Agreement or Cooperative Agreement for the Project or this Master Agreement.

(2) Documents Affected. The applicability provisions of Federal laws, regulations, and directives determine the extent to which those provisions affect an entity (such as a subrecipient, lessee, third party contractor or other) participating in the Project through the Recipient. Thus, the Recipient agrees to use a written document to ensure that each entity participating in the Project complies with applicable Federal laws, regulations, and directives, except to the extent that FTA determines otherwise in writing.

(a) Required Clauses. The Recipient agrees to use a written document (such as a subagreement, lease, third party contract or other) including all appropriate clauses stating the entity's (subrecipient, lessee, third party contractor, or other) responsibilities under applicable

Federal laws, regulations, or directives, except to the extent that FTA determines otherwise in writing.

(b) Flowdown. The Recipient agrees to include in each document (subagreement, lease, third party contract, or other) any necessary provisions requiring the Project participant (third party contractor, subrecipient, or other) to impose applicable Federal requirements and directives on its subrecipients, lessees, third party contractors and other Project participants at the lowest tier necessary, except to the extent that FTA determines otherwise in writing.

(c) Performance of Recipient's Responsibilities. When the document (subagreement, lease, third party contract or other) requires the Project participant (subrecipient, lessee, third party contractor, or other) to undertake responsibilities for the Project usually performed by the Recipient, the Recipient agrees also to include in that document (subagreement, lease, third party contract or other) appropriate provisions that would be applicable to the Recipient as set forth in the Grant Agreement or Cooperative Agreement for the Project or this Master Agreement, and extend those provisions to the subrecipients, lessees, third party contractors, and other Project participants to the lowest tier necessary, except to the extent as FTA determines otherwise in writing.

f. No Federal Government Obligations to Third Parties. In connection with the Project, the Recipient agrees that, absent the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to any subrecipient, lessee, third party contractor, or other person or entity that is not a party to the Grant Agreement or Cooperative Agreement for the Project. Notwithstanding that the Federal Government may have concurred in or approved any solicitation, subagreement, lease, or third party contract at any tier, the Federal Government has no obligations or liabilities to any entity other than the Recipient, including any subrecipient, lessee, or third party contractor at any tier.

g. Changes in Project Performance (i.e., Disputes, Breaches, Defaults, or Litigation). The Recipient agrees to notify FTA immediately, in writing, of any change in local law, conditions (including its legal, financial, or technical capacity), or any other event that may adversely affect the Recipient's ability to perform the Project in accordance with the terms of the Grant Agreement or Cooperative Agreement for the Project and this Master Agreement. The Recipient also agrees to notify FTA immediately, in writing, of any current or prospective major dispute, breach, default, or litigation that may adversely affect the Federal Government's interests in the Project or the Federal Government's administration or enforcement of Federal laws or regulations; and agrees to inform FTA, also in writing, before naming the Federal Government as a party to litigation for any reason, in any forum. At a minimum, the Recipient agrees to send each notice to FTA required by this subsection to the FTA Regional Counsel within whose Region the Recipient operates its public transportation system or implements the Project.

Section 3. Ethics.

a. Code of Conduct/Standards of Conduct. The Recipient agrees to maintain a written code of conduct or standards of conduct that shall govern the actions of its officers, employees, board

members, or agents engaged in the award or administration of subagreements, leases, or third party contracts supported with Federal assistance. The Recipient agrees that its code of conduct or standards of conduct shall specify that its officers, employees, board members, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from any present or potential subrecipient, lessee, or third party contractor at any tier or agent thereof. Such a conflict would arise when an employee, officer, board member, or agent, including any member of his or her immediate family, partner, or organization that employs, or intends to employ, any of the parties listed herein has a financial interest in the entity selected for award. The Recipient may set *de minimis* rules where the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value. The Recipient agrees that its code of conduct or standards of conduct shall also prohibit its officers, employees, board members, or agents from using their respective positions in a manner that presents a real or apparent personal or organizational conflict of interest or personal gain. As permitted by State or local law or regulations, the Recipient agrees that its code of conduct or standards of conduct shall include penalties, sanctions, or other disciplinary actions for violations by its officers, employees, board members, or their agents, or its third party contractors or subrecipients or their agents.

(1) Personal Conflicts of Interest. The Recipient agrees that its code of conduct or standards of conduct shall prohibit the Recipient's employees, officers, board members, or agents from participating in the selection, award, or administration of any third party contract or subagreement supported by Federal assistance if a real or apparent conflict of interest would be involved. Such a conflict would arise when an employee, officer, board member, or agent, including any member of his or her immediate family, partner, or organization that employs, or intends to employ, any of the parties listed herein has a financial interest in the firm selected for award.

(2) Organizational Conflicts of Interest. The Recipient agrees that its code of conduct or standards of conduct shall include procedures for identifying and preventing real and apparent organizational conflicts of interest. An organizational conflict of interest exists when the nature of the work to be performed under a proposed third party contract or subagreement may, without some restrictions on future activities, result in an unfair competitive advantage to the third party contractor or subrecipient or impair its objectivity in performing the contract work.

b. Debarment and Suspension. The Recipient agrees to comply, and assures the compliance of each subrecipient, lessee, or third party contractor at any tier, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Governmentwide Debarment and Suspension (Nonprocurement)," 49 C.F.R. Part 29. The Recipient agrees to, and assures that its subrecipients, lessees, and third party contractors will review the "Excluded Parties Listing System" at <http://epls.gov/> before entering into any third subagreement, lease or third party contract. [U.S. DOT issued a new amendment to these regulations adopting the optional lower tier coverage for tiers lower than the first tier below a covered nonprocurement transaction. *See, 71 Fed. Reg. 62394, October 25, 2006.*]

c. Bonus or Commission. The Recipient affirms that it has not paid, and agrees not to pay, any bonus or commission to obtain approval of its Federal assistance application for the Project.

d. Lobbying Restrictions. The Recipient agrees that:

(1) In compliance with 31 U.S.C. § 1352(a), it will not use Federal assistance to pay the costs of influencing any officer or employee of a Federal agency, Member of Congress, officer of Congress or employee of a member of Congress, in connection with making or extending the Grant Agreement or Cooperative Agreement;

(2) In addition, it will comply with other applicable Federal laws and regulations prohibiting the use of Federal assistance for activities, designed to influence Congress or a State legislature with respect to legislation or appropriations, except through proper, official channels; and

(3) It will comply, and will assure the compliance of each subrecipient, lessee, or third party contractor at any tier, with U.S. DOT regulations, “New Restrictions on Lobbying,” 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352.

e. Employee Political Activity. To the extent applicable, the Recipient agrees to comply with the provisions of the Hatch Act, 5 U.S.C. §§ 1501 through 1508, and 7324 through 7326, and U.S. Office of Personnel Management regulations, “Political Activity of State or Local Officers or Employees,” 5 C.F.R. Part 151. The Hatch Act limits the political activities of State and local agencies and their officers and employees, whose principal employment activities are financed in whole or part with Federal funds including a Federal grant, cooperative agreement, or loan. Nevertheless, in accordance with 49 U.S.C. § 5307(k)(2)(B) and 23 U.S.C. § 142(g), the Hatch Act does not apply to a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA assistance to whom the Hatch Act would not otherwise apply.

f. False or Fraudulent Statements or Claims. The Recipient acknowledges and agrees that:

(1) Civil Fraud. The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 *et seq.*, and U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 C.F.R. Part 31, apply to the Recipient’s activities in connection with the Project. By executing the Grant Agreement or Cooperative Agreement for the Project, the Recipient certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project. In addition to other penalties that may apply, the Recipient also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government, the Federal Government reserves the right to impose on the Recipient the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, to the extent the Federal Government deems appropriate.

(2) Criminal Fraud. If the Recipient makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government or includes a false, fictitious, or fraudulent statement or representation in any agreement with the Federal Government in connection with a Project authorized under 49 U.S.C. chapter 53 or any other Federal law, the Federal Government reserves the right to impose on the Recipient the penalties of 49 U.S.C. § 5323(l), 18 U.S.C. § 1001 or other applicable Federal law to the extent the Federal Government deems appropriate.

Section 4. Federal Assistance.

The Recipient agrees that FTA will provide Federal assistance for the Project equal to the smallest of the following amounts: (a) the maximum amount permitted by Federal law or regulations, (b) the “Maximum FTA Amount Approved”, set forth in the Grant Agreement or Cooperative Agreement for the Project, or (c) the amount calculated in accordance with the “Maximum Percentage(s) of FTA Participation,” as may be modified by the Conditions of Award or other Special Conditions, Special Requirements, or Special Provisions of the Grant Agreement or Cooperative Agreement for the Project. FTA's responsibility to make Federal assistance payments is limited to the amounts listed in the Approved Project Budget for the Project. The “Estimated Total Eligible Cost” in the Grant Agreement or Cooperative Agreement for the Project is the amount that forms the basis on which FTA determines the “Maximum FTA Amount Awarded.”

a. “Net Project Cost.” For any Project required by Federal law or by FTA to be financed on the basis of its “Net Project Cost” as defined at 49 U.S.C. § 5302(a)(8), FTA intends to provide Federal assistance to the Recipient for that portion of the Project that cannot reasonably be financed from the Recipient's revenues, *i.e.*, “Net Project Cost” of the Project. Therefore, the amount stated as the “Estimated Total Eligible Cost” on the Grant Agreement or Cooperative Agreement for the Project is the “Estimated Net Project Cost” and is the amount that forms the basis on which FTA will calculate the amount of Federal assistance that will be awarded for the Project.

b. Other Basis for FTA Participation. For any Project not required by Federal law or FTA to be financed on the basis of its “Net Project Cost” as defined by 49 U.S.C. § 5302(a)(8), FTA intends to provide Federal assistance to the Recipient for all or part of the total Project cost that is eligible for Federal assistance. Therefore, the amount stated as the “Estimated Total Eligible Cost” on the Grant Agreement or Cooperative Agreement for the Project is the amount that forms the basis on which FTA will calculate the amount of Federal assistance that will be awarded for the Project.

Section 5. Local Share.

A Recipient that is required to provide a local share for the Project agrees as follows:

a. Restrictions on the Source of the Local Share. The Recipient agrees to provide sufficient funds or approved in-kind resources, together with the Federal assistance awarded, that will assure payment of the actual cost of each Project activity covered by the Grant Agreement or Cooperative Agreement for the Project. The Recipient agrees that no local share funds provided will be derived from receipts from the use of Project facilities or equipment, revenues of the public transportation system in which such facilities or equipment are used, or other Federal funds, except as permitted by Federal law or regulation.

- b. Duty to Obtain the Local Share. The Recipient agrees to complete all proceedings necessary to provide the local share of the Project costs at or before the time the local share is needed for Project costs, except to the extent that FTA determines otherwise in writing.
- c. Prompt Payment of the Local Share. The Recipient agrees to provide the proportionate amount of the local share promptly as it incurs Project costs or Project costs become due, except to the extent that the Federal Government determines otherwise in writing.
- d. Reduction of the Local Share. The Recipient agrees that no refund or reduction of the local share may be made unless, at the same time, a refund of the proportional amount of the Federal assistance provided is made to the Federal Government.

Section 6. Approved Project Budget.

Except to the extent that FTA determines otherwise in writing, the Recipient agrees as follows: The Recipient will prepare a Project budget which, upon approval by FTA, is designated the "Approved Project Budget." The Recipient will incur obligations and make disbursements of Project funds only as authorized by the latest Approved Project Budget, which will be incorporated by reference and made part the underlying Grant Agreement or Cooperative Agreement for the Project. An amendment to the Approved Project Budget requires the issuance of a formal amendment to the underlying Grant Agreement or Cooperative Agreement, except that re-allocation of funds among budget items or fiscal years that does not increase the total amount of the Federal assistance awarded for the Project may be made consistent with applicable Federal laws, regulations and directives. Prior FTA approval is required for transfers of funds from non-construction to construction categories or vice versa or when, in non-construction grants, cumulative transfers of funds between total direct cost categories exceed ten (10) percent of the total budget. The Recipient agrees to obtain prior written approval for any budget revision that would result in the need for additional funds. An award of additional Federal assistance will require a new Approved Project Budget. If the Recipient estimates that it will have unobligated funds remaining after the end of the performance period of the Project, the Recipient agrees to report this to FTA at the earliest possible time and ask for disposition instructions.

Section 7. Accounting Records.

In compliance with applicable Federal laws, regulations, and directives, and except to the extent that FTA determines otherwise in writing, the Recipient agrees as follows:

- a. Project Accounts. The Recipient agrees to establish and maintain for the Project either a separate set of accounts or separate accounts within the framework of an established accounting system that can be identified with the Project. The Recipient also agrees to maintain all checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents related in whole or in part to the Project so that they may be clearly identified, readily accessible, and available to FTA upon request and, to the extent feasible, kept separate from documents not related to the Project.

b. Funds Received or Made Available for the Project. The Recipient agrees to deposit in a financial institution all advance Project payments it receives from the Federal Government and to record in the Project Account all amounts provided by the Federal Government for the Project and all other funds provided for, accruing to, or otherwise received on account of the Project (Project funds) in compliance with applicable Federal laws, regulations, and directives, except to the extent that FTA determines otherwise in writing. FTA encourages the use of financial institutions owned at least fifty (50) percent by minority group members.

c. Documentation of Project Costs and Program Income. Except to the extent that FTA determines otherwise in writing, the Recipient agrees to support all costs charged to the Project, including any approved services or property contributed by the Recipient or others, with properly executed payrolls, time records, invoices, contracts, or vouchers describing in detail the nature and propriety of the charges, including adequate records to support the costs the Recipient has incurred underlying any payment FTA has agreed to participate in based on a “payable” milestone. The Recipient also agrees to maintain accurate records of all program income derived from Project implementation, except certain income FTA determines to be exempt from Federal program income requirements.

d. Checks, Orders, and Vouchers. The Recipient agrees that it will not draw checks, drafts, or orders for property or services to be charged against the Project Account until it has received and filed a properly signed voucher describing in proper detail the purpose for the expenditure.

Section 8. Reporting, Record Retention, and Access.

a. Types of Reports. The Recipient agrees to submit to FTA all reports required by Federal laws and regulations, and directives, the Grant Agreement or Cooperative Agreement for the Project, this Master Agreement, and any other reports FTA may specify, except to the extent that FTA determines otherwise in writing.

b. Report Formats. The Recipient agrees that all reports and other documents or information intended for public availability developed in the course of the Project and required to be submitted to FTA must be prepared and submitted in electronic and or typewritten hard copy formats as FTA may specify. Electronic submissions must comply with the electronic accessibility provisions of Subsections 12.g(9) and 15.u of this Master Agreement. FTA also reserves the right to specify that records be submitted in other formats.

c. Record Retention. During the course of the Project and for three years thereafter from the date of transmission of the final expenditure report, the Recipient agrees to maintain intact and readily accessible all data, documents, reports, records, contracts, and supporting materials relating to the Project as the Federal Government may require.

d. Access to Records of Recipients and Subrecipients. The Recipient agrees to permit, and require its subrecipients to permit, the U.S. Secretary of Transportation, the Comptroller General of the United States, and, to the extent appropriate, the State, or their authorized representatives,

upon their request to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Recipient and its subrecipients pertaining to the Project, as required by 49 U.S.C. § 5325(g).

e. Project Closeout. The Recipient agrees that Project closeout does not alter the reporting and record retention requirements of this Section 8 of the Master Agreement.

Section 9. Payments.

The Recipient agrees that it will not seek payment from FTA for Project costs until it has executed the Grant Agreement or Cooperative Agreement for the Project.

a. Recipient's Request for Payment. Except to the extent that FTA determines otherwise in writing, to obtain a payment for Project expenses from FTA, the Recipient agrees to:

(1) Demonstrate or certify that it will provide adequate local funds that, when combined with Federal payments, will cover all costs to be incurred for the Project. Except to the extent that the Federal Government determines in writing that the Recipient may defer its provision of its local share for the Project, a Recipient required under the terms of Federal law, regulation, directive, the Grant Agreement or Cooperative Agreement to provide a local share for the Project agrees that it will not:

(a) Request or obtain Federal funds exceeding the amount justified by the local share previously provided, and

(b) Take any action that would cause the proportion of Federal funds made available to the Project at any time to exceed the percentage authorized by the Grant Agreement or Cooperative Agreement for the Project,

(2) Submit to FTA all financial and progress reports required to date by the Grant Agreement or Cooperative Agreement for the Project and this Master Agreement, and

(3) Identify the source(s) of Federal assistance provided for the Project from which the payment is to be derived.

b. Payment by FTA. Except to the extent FTA determines otherwise in writing, the Recipient agrees that FTA will make all payments of Federal assistance through the Automated Clearing House (ACH) method of payment regardless of the amount involved, but not before the Recipient has executed the Grant Agreement or Cooperative Agreement for the Project, in accordance with the following provisions:

(1) Electronic Clearing House Operation Payments. If payment is made through the FTA Electronic Clearinghouse Operation (ECHO) using an ECHO Control Number, the Recipient agrees to comply with: FTA's ECHO requirements that implement U.S. Department of Treasury (U.S. Treasury) Circular 1075, Part 205, "Withdrawal of Cash from the Treasury for Advances

Under Federal Grants and Other Programs”; Treasury Financial Manual, Vol. 1, Part 6, Chapter 2000; the ECHO System Operations Manual, “Guidelines for Disbursements” for FTA Projects; and the provisions of this Subsection 9.b(1). The Recipient also agrees that if it fails to comply with the following provisions of this Subsection 9.b(1), the Federal Government may revoke the unexpended portion of Federal assistance awarded for the Project.

(a) The Recipient agrees to withdraw cash only when actually needed for immediate disbursement required for Project purposes. Except to the extent permitted otherwise or otherwise required by Federal law, regulation, directive, or agreement with the Federal Government, the Recipient agrees to expend all Federal assistance obtained through the Project for Project purposes no later than three (3) days after receiving those funds. If the Recipient fails to expend that Federal assistance within three (3) days of receipt, fails to return withdrawn but unexpended Federal assistance to FTA within a reasonable period, or fails to establish procedures to minimize the time elapsing between cash advances and the disbursement, the Federal Government may revoke or temporarily suspend the Recipient's ECHO Control Number and the Recipient's access to the ECHO System. In addition, the Recipient agrees that if it fails to comply with these provisions, it may be subjected to other remedies or penalties authorized by Federal law or regulation.

(b) The Recipient agrees to report its cash disbursements and balances promptly in compliance with applicable Federal laws, regulations, and directives.

(c) The Recipient agrees to provide for control and accountability for all Federal assistance for the Project consistent with Federal requirements and procedures for use of the ECHO system.

(d) The Recipient agrees that it will not withdraw Federal assistance for a Project in an amount exceeding the sum obligated by the Federal Government or the current available balance for that Project.

(e) The Recipient agrees to withdraw Federal assistance only for payment of eligible Project costs.

(f) The Recipient agrees that it will not withdraw Federal assistance until it is needed for disbursement for Project expenses.

(g) The Recipient agrees to notify the appropriate Regional or Program Office when a single withdrawal will exceed \$50,000,000 at least three days before the withdrawal is anticipated.

(h) The Recipient agrees to remit interest to the Federal Government on any Federal assistance it has withdrawn prematurely, irrespective of whether or not that Federal assistance has been deposited in an interest-bearing account. The Recipient agrees that the amount of interest due the Federal Government depends on whether or not the Recipient is a State or State instrumentality.

1. A Recipient that is a State or State instrumentality agrees to remit to the Federal Government interest as calculated in accordance with U.S. Treasury regulations, “Rules and Procedures for Efficient Federal-State Funds Transfers,” 31 C.F.R. Part 205, which implements section 5(b) of the Cash Management Improvement Act of 1990, as amended, 31 U.S.C. § 6503(b).

2. A Recipient that is neither a State nor a State instrumentality agrees to remit to the Federal Government prejudgment common law interest, as authorized by joint U.S. Treasury and U.S. Department of Justice (joint U.S. Treasury/U.S. DOJ) regulations, “Standards for the Administrative Collection of Claims,” at 31 C.F.R. § 901.9(i). The amount of interest due may be determined by the Federal Government, and in its discretion may be in an amount equal to the amount of interest the Recipient can document that it has earned on its premature drawdowns of Federal assistance funds, or in an amount as calculated in accordance with the “Treasury tax and loan account” rate prescribed by 31 U.S.C. § 3717 for debts owed to the United States, or in an amount as otherwise determined by FTA.

(2) Requisition. If the requisition method of payment is used, the Recipient agrees as follows:

(a) Recipient Responsibilities. The Recipient agrees to complete and submit:

1. “Payment Information Form – Echo-ACH Payment System, Revised 10/92,” to FTA's Accounting Division.

2. Standard Form 270, “Request for Advance or Reimbursement,” to the designated FTA office.

(b) FTA Responsibilities. Upon receiving a request for payment and adequate supporting information, FTA will approve payment by direct deposit, provided that the Recipient has complied with the requirements of the Grant Agreement or Cooperative Agreement for the Project and this Master Agreement, has satisfied FTA that the Federal assistance requested is needed for Project purposes in that requisition period, and is making adequate progress toward Project completion. After the Recipient has demonstrated satisfactory compliance with the preceding requirements, FTA may reimburse the Recipient’s apparent allowable costs incurred (or to be incurred in the requisition period), as set forth in the Approved Project Budget for the Project, but not to exceed the maximum amount of Federal assistance that may be paid through the Federal fiscal year of that requisition.

c. Costs Reimbursed. The Recipient agrees that Project costs eligible for Federal participation must comply with all the following requirements. Except to the extent that FTA determines otherwise in writing, to be eligible for reimbursement, Project costs must be:

(1) Consistent with the Project Description, the Approved Project Budget, and other provisions of the Grant Agreement or Cooperative Agreement for the Project and this Master Agreement,

(2) Necessary in order to accomplish the Project,

(3) Reasonable for the goods or services purchased,

(4) Actual net costs to the Recipient (*i.e.*, the price paid minus any refunds, rebates, or other items of value received by the Recipient that have the effect of reducing the cost actually incurred, excluding program income),

(5) Incurred for work performed after the Effective Date of the Grant Agreement or Cooperative Agreement for the Project, except to the extent that the Federal Government determines otherwise in writing,

(6) Satisfactorily documented,

(7) Treated consistently in accordance with accounting principles and procedures approved by the Federal Government for the Recipient, and with accounting principles and procedures approved by the Recipient for its third party contractors and subrecipients,

(8) Eligible for Federal participation under Federal law, regulations, or directives, and

(9) In compliance with U.S. DOT regulations pertaining to allowable costs at 49 C.F.R. § 18.22(b) or 49 C.F.R. § 19.27, which regulations specify the applicability of U.S. Office of Management and Budget (U.S. OMB) circulars and Federal Acquisition Regulation (FAR) provisions as follows:

(a) U.S. OMB Guidance for Grants and Agreements, “Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87)”, 2 C.F.R. Part 225, applies to Project costs incurred by a Recipient that is a State, local, or Indian tribal government.

(b) U.S. OMB Guidance for Grants and Agreements, “Cost Principles for Educational Institutions (OMB Circular A-21)”, 2 C.F.R. Part 220, applies to Project costs incurred by a Recipient that is an institution of higher education.

(c) U.S. OMB Guidance for Grants and Agreements “Cost Principles for Non-profit Organizations (OMB Circular A-122)”, 2 C.F.R. Part 230, applies to Project costs incurred by a Recipient that is a private nonprofit organization.

(d) FAR, at 48 C.F.R. Chapter I, Subpart 31.2, “Contracts with Commercial Organizations” applies to Project costs incurred by a Recipient that is a for-profit organization.

d. Bond Interest and Other Financing Costs. To the extent permitted by Federal law, regulation, or directive, bond interest and other financing costs are allowable. The Recipient agrees that FTA's participation in Project interest costs will be limited to an amount that does not exceed the most favorable financing terms reasonably available for the Project at the time of borrowing, except to the extent FTA determines otherwise in writing.

e. Excluded Costs. The Recipient understands and agrees that, except to the extent FTA determines otherwise in writing, ineligible costs will be treated as follows:

(1) In determining the amount of Federal assistance FTA will provide for the Project, FTA will exclude:

(a) Any Project cost incurred by the Recipient before the Effective Date of the Grant Agreement, Cooperative Agreement or Amendment thereto, unless otherwise permitted by Federal law, regulation, or directive, or unless an authorized FTA official states in writing to the contrary;

(b) Any cost that is not included in the latest Approved Project Budget;

(c) Any cost for Project property or services received in connection with a subagreement, lease, third party contract, or other arrangement that is required to be, but has not been, concurred in or approved in writing by FTA;

(d) Any ordinary governmental or nonproject operating cost, consistent with the prohibitions of 49 U.S.C. § 5323(h); and

(e) Any cost ineligible for FTA participation as provided by applicable Federal laws, regulations, or directives, except to the extent the Federal Government determines otherwise in writing.

(2) The Recipient understands and agrees that payment to the Recipient for any Project cost does not constitute the Federal Government's final decision about whether that cost is allowable and eligible for payment under the Project and does not constitute a waiver of any violation by the Recipient of the terms of the Grant Agreement or Cooperative Agreement for the Project or this Master Agreement. The Recipient acknowledges that the Federal Government will not make a final determination about the allowability and eligibility of any cost until an audit of the Project has been completed. If the Federal Government determines that the Recipient is not entitled to receive any portion of the Federal assistance requested or paid, the Federal Government will notify the Recipient in writing, stating its reasons. The Recipient agrees that Project closeout will not alter the Recipient's responsibility to return any funds due the Federal Government as a result of later refunds, corrections, or other similar transactions; nor will Project closeout alter the Federal Government's right to disallow costs and recover funds provided for the Project on the basis of a later audit or other review. Unless prohibited by Federal law or regulation, the Federal Government may recover any Federal financial assistance made available for the Project as necessary to satisfy any outstanding monetary claims that the Federal Government may have against the Recipient.

f. Federal Claims, Excess Payments, Disallowed Costs, including Interest.

(1) Recipient's Responsibility to Pay. Upon notification to the Recipient that specific amounts are owed to the Federal Government, whether for excess payments of Federal assistance, disallowed costs, or funds recovered from third parties or elsewhere, the Recipient

agrees to remit to the Federal Government promptly the amounts owed, including applicable interest, penalties and administrative charges.

(2) Amount of Interest. The Recipient agrees that whether the amount due the Federal Government is treated as a Federal claim or is treated as a debt determines how interest is calculated thereon and becomes due. Thus, Recipient agrees to remit interest to the Federal Government in accordance with the following:

(a) Federal Claims or Debts Within the Purview of the Debt Collection Act. For Federal claims against the Recipient or debts of the Recipient to the Federal Government (including excess payments or disallowed costs) within the purview of the Debt Collection Act of 1982, as amended, 31 U.S.C. §§ 3701 *et seq.*, the Recipient agrees that the amount of interest owed to the Federal Government will be determined in accordance with the provisions of joint U.S. Treasury/U.S. DOJ regulations, “Standards for the Administrative Collection of Claims,” at 31 C.F.R. § 901.9(a) through (g) or common law interest authorized by 31 C.F.R. § 901.9(i), whichever is applicable.

(b) Excess Payments or Disallowed Costs. For excess payments or disallowed cost payments made by the Federal Government to the Recipient for which claims procedures have not been initiated under the Debt Collection Act of 1982, as amended, 31 U.S.C. §§ 3701 *et seq.* and implementing regulations, the Recipient agrees that common law interest owed to the Federal Government will be determined in accordance with joint U.S. Treasury/U.S. DOJ regulations, “Standards for the Administrative Collection of Claims,” at 31 C.F.R. § 901.9(i), or otherwise as FTA may determine.

g. De-obligation of Funds. The Recipient agrees that the Federal Government may de-obligate unexpended Federal funds before Project closeout.

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

a. Project Completion. Within ninety (90) calendar days following Project completion or termination by the Federal Government, the Recipient agrees to submit a final Financial Status Report (either electronically or on Standard Form 269A), a certification of Project expenses, and third party audit reports, as applicable.

b. Audit of Recipients. Except to the extent the Federal Government determines otherwise in writing, the Recipient acknowledges and agrees as follows:

(1) Audit Requirements. The Recipient agrees to have performed financial and compliance audits required by the Single Audit Act Amendments of 1996, 31 U.S.C. §§ 7501 *et seq.* As provided by 49 C.F.R. § 19.26, these financial and compliance audits must comply with the provisions of OMB Circular A-133, Revised, “Audits of States, Local Governments, and Non-Profit Organizations,” the latest OMB A-133 Compliance Supplement for U.S. DOT, and any further revision or supplement thereto. The Recipient also agrees to obtain any other audits required by the Federal Government. The Recipient agrees that these audits will be conducted in

accordance with U.S. Government Accountability Office, (U.S. GAO) “Government Auditing Standards.” The Recipient agrees that Project closeout will not alter the Recipient's audit responsibilities.

(2) Audit Costs. Audit costs for Project administration and management are allowable to the extent authorized by OMB Circular A-87, OMB Circular A-21, OMB Circular A-122, or the FAR at 48 C.F.R. Chapter I, Subpart 31.2, whichever is applicable.

c. Funds Owed to the Federal Government. The Recipient agrees to remit to the Federal Government any excess payments made to the Recipient, any costs disallowed by the Federal Government, and any amounts recovered by the Recipient from third parties or from other sources, as well as any penalties and any interest required by Subsection 9.f(2) of this Master Agreement.

d. Project Closeout. Project closeout occurs when FTA notifies the Recipient that FTA has closed the Project, and either forwards the final Federal assistance payment or acknowledges that the Recipient has remitted the proper refund. The Recipient agrees that Project closeout by FTA does not invalidate any continuing requirements imposed by the Grant Agreement or Cooperative Agreement for the Project, this Master Agreement, or any unmet requirements set forth in the Federal Government's final notification or acknowledgment.

Section 11. Right of the Federal Government to Terminate.

Upon written notice, the Recipient agrees that the Federal Government may suspend or terminate all or any part of the Federal assistance to be provided for the Project if the Recipient has violated the terms of the Grant Agreement or Cooperative Agreement for the Project including this Master Agreement, or if the Federal Government determines that the purposes of the laws authorizing the Project would not be adequately served by the continuation of Federal assistance for the Project. The Recipient understands and agrees that any failure to make reasonable progress on the Project or violation of the Grant Agreement or Cooperative Agreement for the Project, or this Master Agreement that endangers substantial performance of the Project shall provide sufficient grounds for the Federal Government to terminate the Grant Agreement or Cooperative Agreement for the Project. In general, termination of Federal assistance for the Project will not invalidate obligations properly incurred by the Recipient before the termination date to the extent those obligations cannot be canceled. If, however, the Federal Government determines that the Recipient has willfully misused Federal assistance by failing to make adequate progress, failing to make reasonable and appropriate use of Project property, or failing to comply with the terms of the Grant Agreement or Cooperative Agreement for the Project including this Master Agreement, the Federal Government reserves the right to require the Recipient to refund the entire amount of Federal assistance provided for the Project or any lesser amount as the Federal Government may determine. Expiration of any Project time period established for the Project does not, by itself, constitute an expiration or termination of the Grant Agreement or Cooperative Agreement for the Project.

Section 12. Civil Rights.

The Recipient agrees to comply with all applicable civil rights laws, regulations and directives, except to the extent that the Federal Government determines otherwise in writing. These include, but are not limited to, the following:

a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to comply, and assures the compliance of each subrecipient, lessee, or third party contractor at any tier of the Project, with the provisions of 49 U.S.C. § 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.

b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to comply, and assures the compliance of each subrecipient, lessee, or third party contractor at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d *et seq.*, and with U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act,” 49 C.F.R. Part 21. Except to the extent FTA determines otherwise in writing, the Recipient also agrees to comply with all applicable provisions of FTA Circular 4702.1A, “Title VI and Title VI-- Dependent Guidelines for Federal Transit Administration Recipients,” May 13, 2007, and any other applicable Federal directives that may be issued.

c. Equal Employment Opportunity. The Recipient agrees to comply, and assures the compliance of each subrecipient, lessee, or third party contractor at any tier of the Project, with all equal employment opportunity (EEO) provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and implementing Federal regulations and any subsequent amendments thereto. Except to the extent FTA determines otherwise in writing, the Recipient also agrees to comply with all applicable Federal EEO directives that may be issued. Accordingly:

(1) General. The Recipient agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The 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, religion, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotions or transfers, recruitment or recruitment advertising, layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(2) Equal Employment Opportunity Requirements for Construction Activities. For activities determined by the U.S. Department of Labor (U.S. DOL) to qualify as “construction,” the Recipient agrees to comply and assures the compliance of each subrecipient, lessee, or third party contractor at any tier of the Project, with all applicable equal employment opportunity requirements of U.S. 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 No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, and also with any Federal laws, regulations, and directives affecting construction undertaken as part of the Project.

d. Disadvantaged Business Enterprise. To the extent authorized by Federal law, the Recipient agrees to facilitate participation by Disadvantaged Business Enterprises (DBEs) in the Project and assures that each subrecipient, lessee, and third party contractor participating at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable. Therefore:

(1) The Recipient agrees and assures that it will comply with section 1101(b) of SAFETEA-LU, 23 U.S.C. § 101 note, and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26.

(2) The Recipient agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any subagreement, lease or third party contract, supported with Federal assistance derived from U.S. DOT in the administration of its DBE program and will comply with the requirements of 49 C.F.R. Part 26. The Recipient agrees to take all necessary and reasonable steps as set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all subagreements, leases, and third party contracts supported with Federal assistance derived from U.S. DOT. As required by 49 C.F.R. Part 26, the Recipient's DBE program approved by U.S. DOT, if any, is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The Recipient agrees that implementation of this DBE program is a legal obligation, and that failure to carry out that DBE program shall be treated as a violation of the Grant Agreement or Cooperative Agreement for the Project and the Master Agreement. Upon notification by U.S. DOT to the Recipient of its failure to implement its approved DBE program, U.S. DOT may impose sanctions as set forth in 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 *et seq.*

e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and with implementing Federal regulations that prohibit discrimination on the basis of sex that may be applicable.

f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with all applicable requirements of:

(1) The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and with implementing U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. Part 90, which prohibit discrimination against individuals on the basis of age.

(2) The Age Discrimination in Employment Act (ADEA) 29 U.S.C. §§ 621 through 634 and with implementing U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, “Age Discrimination in Employment Act,” 29 C.F.R. Part 1625.

g. Access for Individuals with Disabilities. The Recipient agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Recipient also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities, and any subsequent amendments to these laws or other laws pertaining to access for individuals with disabilities to the extent applicable. In addition, the Recipient agrees to comply with applicable implementing Federal regulations and directives and any subsequent amendments thereto, as follows:

- (1) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. Part 37;
- (2) U.S. DOT regulations, “Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
- (4) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. Part 36;
- (6) U.S. General Services Administration (U.S. GSA) regulations, “Accommodations for the Physically Handicapped,” 41 C.F.R. Subpart 101-19;
- (7) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled,” 47 C.F.R. Part 64, Subpart F;

(9) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. Part 1194;

(10) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. Part 609; and

(11) Federal civil rights and nondiscrimination directives implementing the foregoing regulations, except to the extent the Federal Government determines otherwise in writing.

h. Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections. To the extent applicable, the Recipient agrees to comply with the confidentiality and other civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and with the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 201 *et seq.*, and any amendments thereto.

i. Access to Services for Persons with Limited English Proficiency. To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, “Improving Access to Services for Persons with Limited English Proficiency,” 42 U.S.C. § 2000d-1 note, and with the provisions of U.S. DOT Notice, “DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficiency (LEP) Persons,” 70 *Fed. Reg.* 74087, December 14, 2005.

j. Environmental Justice. The Recipient agrees to comply with the policies of Executive Order No. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing.

k. Other Nondiscrimination Laws. The Recipient agrees to comply with all applicable provisions of other Federal laws, regulations, and directives pertaining to and prohibiting discrimination, except to the extent the Federal Government determines otherwise in writing.

Section 13. Planning and Private Enterprise.

a. General. The Recipient agrees to implement the Project consistent with the plans developed in accordance with the following Federal planning and private enterprise provisions:

(1) 49 U.S.C. §§ 5303, 5304, 5306, and 5323(a)(1);

(2) Joint FHWA/FTA regulations, “Statewide Transportation Planning; Metropolitan Transportation Planning,” 23 C.F.R. Part 450 and 49 C.F.R. Part 613, [newly published at 72 *Fed. Reg.* 7223 *et seq.*, February 14, 2007] and any subsequent amendments thereto]; and

(3) FTA regulations, “Major Capital Investment Projects,” 49 C.F.R. Part 611, to the extent that those regulations are consistent with the SAFETEA-LU amendments to the public

transportation planning and private enterprise laws and, when promulgated, any subsequent amendments to those regulations.

b. Governmental and Private Nonprofit Providers of Nonemergency Transportation. In addition to providing opportunities to participate in planning as described in Subsection 13.a of this Master Agreement, to the extent feasible the Recipient agrees to comply with the provisions of 49 U.S.C. § 5323(k), which afford governmental agencies and nonprofit organizations that receive Federal assistance for nonemergency transportation from Federal Government sources (other than U.S. DOT) an opportunity to be included in the design, coordination, and planning of transportation services.

c. Infrastructure Investment. During the implementation of the Project, the Recipient agrees to take into consideration the recommendations of Executive Order No. 12803, "Infrastructure Privatization," 31 U.S.C. § 501 note, and Executive Order No. 12893, "Principles for Federal Infrastructure Investments," 31 U.S.C. § 501 note.

Section 14. Preference for United States Products and Services.

To the extent applicable, the Recipient agrees to comply with the following U.S. domestic preference requirements:

a. Buy America. The Recipient agrees to comply with 49 U.S.C. § 5323(j) and FTA regulations, "Buy America Requirements," 49 C.F.R. Part 661 to the extent those regulations are consistent with SAFETEA-LU provisions, and subsequent amendments to those regulations that may be promulgated. [New amendments to FTA regulations, "Buy America Requirements" regulations have been published at 71 *Fed. Reg.* 14112 *et seq.*, March 21, 2006, and at 72 *Fed. Reg.* 53688, September 20, 2007.]

b. Cargo Preference-Use of United States-Flag Vessels. To the extent applicable, the Recipient agrees to comply with 46 U.S.C. § 55305 and U.S. Maritime Administration regulations, "Cargo Preference-U.S.-Flag Vessels," 46 C.F.R. Part 381.

c. Fly America. The Recipient understands and agrees that the Federal Government will not participate in the costs of international air transportation of any individuals involved in or property acquired for the Project unless that air transportation is provided by U.S.-flag air carriers to the extent such service is available, in compliance with section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 through 301-10.143.

Section 15. Procurement.

To the extent applicable, the Recipient agrees to comply with the following third party procurement provisions:

a. Federal Standards. The Recipient agrees to comply with applicable third party procurement requirements of 49 U.S.C. chapter 53 and other procurement requirements of Federal laws in effect now or as subsequently enacted to the extent applicable; with applicable U.S. DOT third party procurement regulations at 49 C.F.R. § 18.36 or 49 C.F.R. §§ 19.40 through 19.48, and with other applicable Federal regulations pertaining to third party procurements and subsequent amendments thereto, to the extent those regulations and amendments are consistent with SAFETEA-LU provisions. The Recipient also agrees to comply with the provisions of FTA Circular 4220.1E, “Third Party Contracting Requirements,” to the extent those provisions are consistent with SAFETEA-LU provisions and with any subsequent revision to that circular, except to the extent FTA determines otherwise in writing. Although the FTA “Best Practices Procurement Manual” provides additional procurement guidance, the Recipient understands that the FTA “Best Practices Procurement Manual” is focused on third party procurement processes and may omit certain Federal requirements applicable to specific third party contract work to be performed.

b. Full and Open Competition. In accordance with 49 U.S.C. § 5325(a), the Recipient agrees to conduct all procurement transactions in a manner that provides full and open competition as determined by FTA.

c. Exclusionary or Discriminatory Specifications. Apart from inconsistent requirements imposed by Federal laws or Federal regulations, the Recipient agrees to comply with the requirements of 49 U.S.C. § 5325(h) by not expending or otherwise using any Federal assistance awarded to it by FTA to support a procurement using exclusionary or discriminatory specifications.

d. Geographic Restrictions. The Recipient agrees that it will not use any State or local geographic preference, except State or local geographic preferences expressly mandated or as permitted by FTA. For example, in procuring architectural, engineering, or related services, however, the contractor’s geographic location may be a selection criterion, provided that a sufficient number of qualified firms are eligible to compete.

e. In-State Bus Dealer Restrictions. In accordance with 49 U.S.C. § 5325(i), the Recipient agrees that any State law requiring buses to be purchased through in-State dealers will not apply to acquisitions of vehicles financed with Federal assistance authorized under 49 U.S.C. chapter 53.

f. Neutrality in Labor Relations. To the extent permitted by law, the Recipient agrees to comply with Executive Order No. 13202, “Preservation of Open Competition and Government Neutrality Towards Government Contractors’ Labor Relations on Federal and Federally Funded Construction Projects,” as amended by Executive Order No. 13208, 41 U.S.C. § 251 note, which among other things, provides that the Recipient may neither impose requirements for nor prohibit affiliations with a labor organization (such as project labor agreements) as a condition for award of any third party contract or subcontract for construction or construction management services, except to the extent that the Federal Government determines otherwise in writing.

g. Federal Supply Schedules. State, local, or nonprofit Recipients may not use Federal Supply Schedules to acquire federally assisted property or services except to the extent permitted by U.S. GSA, U.S. DOT, or FTA laws, regulations, directives, or determinations.

h. Force Account. The Recipient agrees that FTA may determine the extent to which Federal assistance may be used to participate in force account costs.

i. FTA Technical Review. The Recipient agrees to permit FTA to review and approve the Recipient's technical specifications and requirements to the extent FTA believes necessary to ensure proper Project administration.

j. Project Approval/Third Party Contract Approval. Except to the extent FTA determines otherwise in writing, the Recipient agrees that FTA's award of Federal assistance for the Project does not, by itself, constitute pre-approval of any non-competitive third party contract associated with the Project.

k. Preference for Recycled Products. To the extent applicable, the Recipient agrees to comply with U.S. EPA regulations, "Comprehensive Procurement Guidelines for Products Containing Recovered Materials," 40 C.F.R. Part 247, which implements section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and with subsequent Federal regulations that may be promulgated. Accordingly, the Recipient agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.

l. Clean Air and Clean Water. The Recipient agrees to include in each third party contract and each subagreement exceeding \$100,000 adequate provisions to ensure that each Project participant will agree to:

(1) Report the use of facilities placed on or likely to be placed on the U.S. Environmental Protection Agency (U.S. EPA) "List of Violating Facilities,"

(2) Refrain from using any violating facilities,

(3) Report violations to FTA and the Regional U.S. EPA Office, and

(4) Comply with the inspection and other applicable requirements of:

(a) Section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7414, and other applicable provisions of the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q; and

(b) Section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and other applicable requirements of the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377.

m. National Intelligent Transportation Systems Architecture and Standards. To the extent applicable, the Recipient agrees to conform to the National Intelligent Transportation Systems

(ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and comply with FTA Notice, “FTA National ITS Architecture Policy on Transit Projects” 66 *Fed. Reg.* 1455 *et seq.*, January 8, 2001, and any subsequent further implementing directives, except to the extent FTA determines otherwise in writing.

n. Rolling Stock. In acquiring rolling stock, the Recipient agrees as follows:

(1) Method of Acquisition. In compliance with 49 U.S.C. § 5325(f), the Recipient agrees that any third party contract award it makes for rolling stock will be based on initial capital costs, or on performance, standardization, life cycle costs, and other factors, or on a competitive procurement process.

(2) Multi-year Options. In accordance with 49 U.S.C. § 5325(e)(1), a Recipient procuring rolling stock financed with Federal assistance under 49 U.S.C. chapter 53 may not enter into a multi-year contract with options, exceeding five (5) years after the date of the original contract, to purchase additional rolling stock and replacement parts.

(3) Pre-Award and Post-Delivery Requirements. The Recipient agrees to comply with the requirements of 49 U.S.C. § 5323(m) and FTA regulations, “Pre-Award and Post-Delivery Audits of Rolling Stock Purchases,” 49 C.F.R. Part 663 and, when promulgated, any amendments to those regulations.

(4) Bus Testing. To the extent applicable, the Recipient agrees to comply with the requirements of 49 U.S.C. § 5318(e) and FTA regulations, “Bus Testing,” 49 C.F.R. Part 665, and any amendments to those regulations that may be promulgated.

o. Bonding. Except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the following bonding requirements, as applicable:

(1) Construction Activities. The Recipient agrees to provide bid guarantee, contract performance, and payment bonds as provided by Federal regulations and to the extent as determined adequate by FTA in writing, and comply with any other construction bonding provisions as FTA may determine.

(2) Other Activities. The Recipient agrees to comply with any other bonding requirements or restrictions as FTA may determine.

p. Architectural, Engineering, Design, or Related Services. In compliance with 49 U.S.C. § 5325(b), the Recipient agrees to comply with the following requirements pertaining to the procurement of architectural, engineering, or related services that will be financed with funds authorized under 49 U.S.C. chapter 53 or required by Federal law to be administered in accordance with 49 U.S.C. chapter 53:

(1) When procuring architectural, engineering, or related services, the Recipient agrees that it and its subcontractors at any tier will:

(a) Negotiate for those services in the same manner as a contract for architectural, engineering, or related services is negotiated under chapter 11 of Title 40, United States Code, or

(b) Comply with an equivalent State qualifications-based requirement for contracting for architectural, engineering, and design services, provided the State has adopted by law such requirement before August 10, 2005.

(2) Upon awarding a contract for those services, the Recipient agrees that and its subcontractors at any tier will:

(a) Perform and audit the third party contract or the third party subcontract in compliance with the cost principles of the FAR as set forth in 48 C.F.R. Part 31.

(b) Will accept the indirect cost rates established by a cognizant Federal or State government agency in accordance with the FAR for one-year applicable accounting periods, if those rates are not currently under dispute.

(c) Apply the firm's indirect cost rates, without any limitation by administrative or de facto ceilings, for purposes of contract estimation, negotiation, administration, reporting, and contract payment, after the firm's indirect cost rates are accepted as described in Subsection 15.p(2)(b) of this Master Agreement.

(d) The Recipient agrees and assures that it and any of a group of entities sharing cost or rate data described in Subsection 15.p(2)(c) of this Master Agreement shall:

1. Notify any affected firm before requesting or using that data,
2. Maintain the confidentiality of that data and assure that it is not accessible or provided to others, and
3. Not disclose that data under any circumstances if doing so is prohibited by law.

q. Design-Build Projects. In accordance with 49 U.S.C. § 5325(d)(2), the Recipient may use design-build procurements to implement its Projects after it has complied with all applicable requirements established by the Federal Government, whether through Federal regulations or through Federal directives, except to the extent the Federal Government determines otherwise in writing.

r. Award to Other than the Lowest Bidder. In accordance with 49 U.S.C. § 5325(c), a Recipient may award a third party contract to other than the lowest bidder, if the award furthers an objective (such as improved long-term operating efficiency and lower long-term costs) consistent with the purposes of 49 U.S.C. chapter 53, and any implementing Federal regulations or directives that FTA may issue, except to the extent FTA determines otherwise in writing.

s. Award to Responsible Contractors. In compliance with 49 U.S.C. § 5325(j), the Recipient agrees to award third party contracts only to those contractors possessing the ability to

successfully perform under the terms of the proposed procurement, and before awarding a third party contract, the Recipient agrees to consider:

- (1) The integrity of the third party contractor,
- (2) The third party contractor's compliance with public policy,
- (3) The third party contractor's past performance, including the performance reported in Contractor Performance Assessment Reports required by 49 U.S.C. § 5309(l)(2), if any, and
- (4) The third party contractor's financial and technical resources.

t. Access to Third Party Contract Records. The Recipient agrees to require its third party contractors and third party subcontractors, at as many tiers as required, to provide to the U.S. Secretary of Transportation and the Comptroller General of the United States or their duly authorized representatives, access to all third party contract records to the extent required by 49 U.S.C. § 5325(g). The Recipient further agrees to require its third party contractors and third party subcontractors, to provide sufficient access to third party procurement records as needed for compliance with Federal regulations or to assure proper Project management as determined by FTA.

u. Electronic and Information Technology. When using Federal assistance to procure reports or information to be delivered to the Recipient for distribution to FTA, among others, the Recipient agrees to include in its specifications a requirement that the reports or information will be prepared using electronic or information technology capable of assuring that the reports or information, when provided to FTA, will meet the applicable accessibility standards of section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794d, and U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194.

Section 16. Leases.

- a. Capital Leases. To the extent applicable, the Recipient agrees to comply with FTA regulations, "Capital Leases," 49 C.F.R. Part 639, and any revision thereto.
- b. Leases Involving Certificates of Participation. The Recipient agrees to obtain FTA concurrence before entering into any leasing arrangement involving the issuance of certificates of participation in connection with the acquisition of any capital asset.

Section 17. Patent Rights.

- a. General. If any invention, improvement, or discovery of the Recipient or any subrecipient or any third party contractor at any tier is conceived or first actually reduced to practice in the course of or under the Project, and that invention, improvement, or discovery is patentable under

the laws of the United States of America or any foreign country, the Recipient agrees to notify FTA immediately and provide a detailed report in a format satisfactory to FTA.

b. Federal Rights. The Recipient agrees that its rights and responsibilities, and those of each subrecipient, each lessee, and each third party contractor at any tier, pertaining to that invention, improvement, or discovery will be determined in accordance with applicable Federal laws, regulations, including any waiver thereof. Absent a determination in writing to the contrary by the Federal Government, the Recipient agrees to transmit to FTA those rights due the Federal Government in any invention, improvement, or discovery resulting from that subagreement, third party contract, or third party subcontract, as specified in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401 (implementing 35 U.S.C. §§ 200 *et seq.*), irrespective of the status of the Recipient, subrecipient, lessee, or third party contractor (*i.e.*, a large business, small business, State government, State instrumentality, local government, Indian tribe, nonprofit organization, institution of higher education, individual, *etc.*).

Section 18. Rights in Data and Copyrights.

a. Definition. The term "subject data," as used in this Section 18 of this Master Agreement means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Grant Agreement or Cooperative Agreement for the Project. Examples include, but are not limited to: computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information. "Subject data," as used in this Section 18 does not include financial reports, cost analyses, or other similar information used for Project administration.

b. General. The following restrictions apply to all subject data first produced in the performance of the Grant Agreement or Cooperative Agreement for the Project:

(1) Except for its own internal use, the Recipient may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Recipient authorize others to do so, without the prior written consent of the Federal Government, unless the Federal Government has previously released or approved the release of such data to the public.

(2) The restrictions on publication of Subsection 18.b(1) of this Master Agreement, however, do not apply to a Grant Agreement or Cooperative Agreement with an institution of higher learning.

c. Federal Rights in Data and Copyrights. The Recipient agrees to provide to the Federal Government a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for Federal Government purposes the subject data described in this Subsection 18.c of this Master Agreement. As used herein, "for Federal Government purposes," means use only for the direct purposes of the Federal Government.

Without the copyright owner's consent, the Federal Government may not provide or otherwise extend to other parties the Federal Government's license to:

(1) Any subject data developed under the Grant Agreement or Cooperative Agreement for the Project, or under a subagreement or third party contract supported with Federal assistance derived from the Grant Agreement or Cooperative Agreement for the Project, whether or not a copyright has been obtained; and

(2) Any rights of copyright to which a Recipient, subrecipient, or a third party contractor purchases ownership with Federal assistance.

d. Special Federal Rights in Data for Research, Development, Demonstration, and Special Studies Projects. In general, FTA's purpose in providing Federal assistance for a research, development, demonstration, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project to Project participants. Therefore, except to the extent that FTA determines otherwise in writing, the Recipient of Federal assistance to support a research, development, demonstration, or a special studies Project agrees that, in addition to the rights in data and copyrights that it must provide to the Federal Government as set forth in Subsection 18.c of this Master Agreement, FTA may make available to any FTA recipient, subrecipient, third party contractor, or third party subcontractor, either FTA's license in the copyright to the subject data or a copy of the subject data. If the Project is not completed for any reason whatsoever, all data developed under the Project shall become subject data as defined in Subsection 18.a of this Master Agreement and shall be delivered as the Federal Government may direct. This Subsection 18.d, however, does not apply to adaptations of automatic data processing equipment or programs for the Recipient's use when the costs thereof are financed with Federal funds for capital Projects.

e. Hold Harmless. Except as prohibited or otherwise limited by State law or except to the extent that FTA determines otherwise in writing, upon request by the Federal Government, the Recipient agrees to indemnify, save, and hold harmless the Federal Government and its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Recipient of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Project. The Recipient shall not be required to indemnify the Federal Government for any such liability caused by the wrongful acts of Federal employees or agents.

f. Restrictions on Access to Patent Rights. Nothing in Section 18 of this Master Agreement pertaining to rights in data shall either imply a license to the Federal Government under any patent or be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent.

g. Data Developed Without Federal Funding or Support. In connection with the Project, the Recipient may find it necessary to provide data to FTA developed without any Federal funding or support by the Federal Government. The requirements of Subsections 18.b, 18.c, and 18.d of this Master Agreement do not apply to data developed without Federal funding or support, even

though that data may have been used in connection with the Project. Nevertheless, the Recipient understands and agrees that the Federal Government will not be able to protect data from unauthorized disclosure unless that data is clearly marked “Proprietary” or “Confidential.”

h. Requirements to Release Data. To the extent required by U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,” at 49 C.F.R. § 19.36(d), or subsequent Federal laws or regulations, the Recipient understands and agrees that the data and information it submits to the Federal Government may be required to be released in accordance with the provisions of the Freedom of Information Act (or another Federal law providing access to such records).

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

The Recipient understands and agrees that the Federal Government retains a Federal interest in any real property, equipment, and supplies financed with Federal assistance (Project property) until, and to the extent, that the Federal Government relinquishes its Federal interest in that Project property. With respect to any Project property financed with Federal assistance under the Grant Agreement or Cooperative Agreement, the Recipient agrees to comply with the following provisions of this Master Agreement, except to the extent FTA determines otherwise in writing:

a. Use of Project Property. The Recipient agrees to maintain continuing control of the use of Project property to the extent satisfactory to FTA. The Recipient agrees to use Project property for appropriate Project purposes (which may include joint development purposes that generate program income, both during and after the award period and used to support public transportation activities) for the duration of the useful life of that property, as required by FTA. Should the Recipient unreasonably delay or fail to use Project property during the useful life of that property, the Recipient agrees that it may be required to return the entire amount of the Federal assistance expended on that property. The Recipient further agrees to notify FTA immediately when any Project property is withdrawn from Project use or when any Project property is used in a manner substantially different from the representations the Recipient has made in its Application or in the Project Description for the Grant Agreement or Cooperative Agreement for the Project.

b. General. A Recipient that is a State, local, or Indian tribal government agrees to comply with the property management standards of 49 C.F.R. §§ 18.31 through 18.34, including any amendments thereto, and with other applicable Federal regulations and directives. A Recipient that is an institution of higher education or private nonprofit entity, agrees to comply with the property management standards of 49 C.F.R. §§ 19.30 through 19.37, including any amendments thereto, and with other applicable Federal regulations and directives. Any exception to the requirements of 49 C.F.R. §§ 18.31 through 18.34, or the requirements of 49 C.F.R. §§ 19.30 through 19.37, requires the express approval of the Federal Government in writing. A Recipient that is a for-profit entity agrees to comply with property management standards satisfactory to FTA. The Recipient also agrees to comply with FTA’s reimbursement requirements for premature dispositions of certain Project equipment, as set forth in Subsection 19.g of this Master Agreement.

c. Maintenance. The Recipient agrees to maintain Project property in good operating order, in compliance with any applicable Federal regulations or directives that may be issued, except to the extent that FTA determines otherwise in writing.

d. Records. The Recipient agrees to keep satisfactory records pertaining to the use of Project property, and submit to FTA upon request such information as may be required to assure compliance with this Section 19 of this Master Agreement.

e. Incidental Use. The Recipient agrees that:

(1) General. Any incidental use of Project property will not exceed that permitted under applicable Federal laws, regulations, and directives.

(2) Alternative Fueling Facilities. In accordance with 49 U.S.C. § 5323(p), any incidental use of its federally financed alternative fueling facilities and equipment by nontransit public entities and private entities will be permitted, only if:

(a) The incidental use does not interfere with the Recipient's Project or public transportation operations;

(b) The Recipient fully recaptures all costs related to the incidental use from the nontransit public entity or private entity;

(c) The Recipient uses revenues received from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and

(d) Private entities pay all applicable excise taxes on fuel.

f. Encumbrance of Project Property. Unless FTA approves otherwise in writing, the Recipient agrees to maintain satisfactory continuing control of Project property as follows:

(1) Written Transactions. Absent the express consent of the Federal Government, the Recipient agrees that it will not execute any transfer of title, lease, lien, pledge, mortgage, encumbrance, third party contract, subagreement, grant anticipation note, alienation, innovative finance arrangement (such as a cross border lease, leveraged lease, or otherwise), or any other obligation pertaining to Project property, that in any way would affect the continuing Federal interest in that Project property.

(2) Oral Transactions. Absent the express consent of the Federal Government, the Recipient agrees that it will not obligate itself to any third party with respect to Project property in any manner that would adversely affect the continuing Federal interest in any Project property.

(3) Other Actions. The Recipient agrees that it will not take any action that would either adversely affect the Federal interest or adversely impair the Recipient's continuing control of the use of Project property.

g. Transfer of Project Property. The Recipient understands and agrees as follows:

(1) Recipient Request. The Recipient may transfer any Project property financed with Federal assistance authorized under 49 U.S.C. chapter 53 to a local governmental authority to be used for any public purpose with no further obligation to the Federal Government, provided the transfer is approved by the Federal Transit Administrator and conforms with the requirements of 49 U.S.C. §§ 5334(h)(1) through 5334(h)(3).

(2) Federal Government Direction. The Recipient agrees that the Federal Government may direct the disposition of, and even require the Recipient to transfer title to, any Project property financed with Federal assistance awarded under the Grant Agreement or Cooperative Agreement.

(3) Leasing Project Property to Another Party. Unless FTA has determined or determines otherwise in writing, if the Recipient leases any Project property to another party, the Recipient agrees to retain ownership of the leased Project property, and assures that the lessee will use the Project property appropriately, either through a written lease between the Recipient and lessee, or another similar document. Upon request by FTA, the Recipient agrees to provide a copy of any relevant documents.

h. Disposition of Project Property. With prior FTA approval, the Recipient may sell, transfer, or lease Project property and use the proceeds to reduce the gross project cost of other eligible capital public transportation projects to the extent permitted by 49 U.S.C. § 5334(h)(4). The Recipient also agrees that FTA may establish the useful life of Project property, and that it will use Project property continuously and appropriately throughout the useful life of that property.

(1) Project Property Whose Useful Life Has Expired. When the useful life of Project property has expired, the Recipient agrees to comply with FTA's disposition requirements.

(2) Project Property Prematurely Withdrawn from Use. For Project property withdrawn from appropriate use before its useful life has expired, the Recipient agrees as follows:

(a) Notification Requirement. The Recipient agrees to notify FTA immediately when any Project property is prematurely withdrawn from appropriate use, whether by planned withdrawal, misuse, or casualty loss.

(b) Calculating the Fair Market Value of Prematurely Withdrawn Project Property. The Recipient agrees that the Federal Government retains a Federal interest in the fair market value of Project property prematurely withdrawn from appropriate use. The amount of the Federal interest in the Project property shall be determined on the basis of the ratio of the Federal assistance made available for the property to the actual cost of the property. The Recipient agrees that the fair market value of Project property prematurely withdrawn from use will be calculated as follows:

1. Equipment and Supplies. Unless otherwise determined in writing by FTA, the Recipient agrees that the fair market value of Project equipment and supplies shall be calculated

by straight-line depreciation of that property, based on the useful life of the equipment or supplies as established or approved by FTA. The fair market value of Project equipment and supplies shall be the value immediately before the occurrence prompting the withdrawal of the equipment or supplies from appropriate use. In the case of Project equipment or supplies lost or damaged by fire, casualty, or natural disaster, the fair market value shall be calculated on the basis of the condition of the equipment or supplies immediately before the fire, casualty, or natural disaster, irrespective of the extent of insurance coverage. As authorized by 49 C.F.R. § 18.32(b), a State may use its own disposition procedures, provided that those procedures comply with the laws of that State.

2. Real Property. The Recipient agrees that the fair market value of real property financed under the Project shall be determined by FTA either on the basis of competent appraisal based on an appropriate date approved by FTA, as provided by 49 C.F.R. Part 24, by straight line depreciation of improvements to real property coupled with the value of the land as determined by FTA on the basis of appraisal, or other Federal law or regulations that may be applicable.

3. Exceptional Circumstances. The Recipient agrees that the Federal Government may require the use of another method to determine the fair market value of withdrawn Project property. In unusual circumstances, the Recipient may request that another reasonable valuation method be used including, but not limited to, accelerated depreciation, comparable sales, or established market values. In determining whether to approve such a request, the Federal Government may consider any action taken, omission made, or unfortunate occurrence suffered by the Recipient pertaining to the preservation of Project property no longer used for appropriate purposes.

(c) Financial Obligations to the Federal Government. Unless otherwise approved in writing by the Federal Government, the Recipient agrees to remit to the Federal Government the Federal interest in the fair market value of any Project property prematurely withdrawn from appropriate use. In the case of fire, casualty, or natural disaster, the Recipient may fulfill its obligations to remit the Federal interest by either:

1. Investing an amount equal to the remaining Federal interest in like-kind property that is eligible for assistance within the scope of the Project that provided Federal assistance for the property that has been prematurely withdrawn from use; or

2. Returning to the Federal Government an amount equal to the remaining Federal interest in the withdrawn Project property.

i. Insurance Proceeds. If the Recipient receives insurance proceeds as a result of damage or destruction to the Project property, the Recipient agrees to:

(1) Apply those insurance proceeds to the cost of replacing the damaged or destroyed Project property taken out of service, or

(2) Return to the Federal Government an amount equal to the remaining Federal interest in the damaged or destroyed Project property.

j. Transportation - Hazardous Materials. The Recipient agrees to comply with applicable requirements of U.S. Pipeline and Hazardous Materials Safety Administration regulations, “Shippers - General Requirements for Shipments and Packagings,” 49 C.F.R. Part 173, in connection with the transportation of any hazardous materials.

k. Misused or Damaged Project Property. If any damage to Project property results from abuse or misuse occurring with the Recipient's knowledge and consent, the Recipient agrees to restore the Project property to its original condition or refund the value of the Federal interest in that property, as the Federal Government may require.

l. Responsibilities After Project Closeout. The Recipient agrees that Project closeout will not change the Recipient's Project property management responsibilities as stated in Section 19 of this Master Agreement, and as may be set forth in subsequent Federal laws, regulations, and directives, except to the extent the Federal Government determines otherwise in writing.

Section 20. Insurance.

In addition to other insurance requirements that may apply, the Recipient agrees as follows:

a. Minimum Requirements. At a minimum, the Recipient agrees to comply with the insurance requirements normally imposed on the Recipient by its State and local laws, regulations, and ordinances, except to the extent that the Federal Government determines otherwise in writing.

b. Flood Hazards. To the extent applicable, the Recipient agrees to comply with the flood insurance purchase provisions of section 102(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. § 4012a(a), with respect to any Project activity involving construction or an acquisition having an insurable cost of \$10,000 or more.

Section 21. Relocation.

When relocation of individuals or businesses is required, the Recipient agrees as follows:

a. Relocation Protections. The Recipient agrees to comply with 49 U.S.C. § 5324(a), which requires compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. §§ 4601 *et seq.*; and U.S. DOT regulations, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,” 49 C.F.R. Part 24, which provide for fair and equitable treatment of persons displaced and persons whose property is acquired as a result of Federal and federally assisted programs. These requirements apply to relocation in connection with all interests in real property acquired for the Project regardless of Federal participation in the costs of that real property.

b. Nondiscrimination in Housing. In carrying out its responsibilities to provide housing that may be required to comply with Federal relocation requirements for individuals, the Recipient agrees to comply with Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. §§ 3601 *et seq.*, and with Executive Order No. 12892, “Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing,” 42 U.S.C. § 3608 note.

c. Prohibition Against Use of Lead-Based Paint. In undertaking construction or rehabilitation of residential structures on behalf of individuals affected by real property acquisition in connection with the Project, the Recipient agrees that it will not use lead-based paint, consistent with the prohibitions of section 401(b) of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. § 4831(b), and the provisions of U.S. Housing and Urban Development regulations, “Lead-based Paint Poisoning in Certain Residential Structures,” 42 C.F.R. Part 35.1.

Section 22. Real Property.

For real property acquired with Federal assistance, the Recipient agrees as follows:

a. Land Acquisition. The Recipient agrees to comply with 49 U.S.C. § 5324(a), which requires compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. §§ 4601 *et seq.*; and with U.S. DOT regulations, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,” 49 C.F.R. Part 24. These requirements apply to all interests in real property acquired for Project purposes regardless of Federal participation in the cost of that real property.

b. Covenant Assuring Nondiscrimination. The Recipient agrees to include a covenant in the title of the real property acquired for the Project to assure nondiscrimination during the useful life of the Project.

c. Recording Title to Real Property. To the extent required by FTA, the Recipient agrees to record the Federal interest in title to real property used in connection with the Project.

d. FTA Approval of Changes in Real Property Ownership. The Recipient agrees that it will not dispose of, modify the use of, or change the terms of the real property title of, or any other interest in the site and facilities used in the Project without permission and instructions from FTA.

Section 23. Construction.

Except to the extent the Federal Government determines otherwise in writing, the Recipient agrees as follows:

a. Drafting, Review, and Approval of Construction Plans and Specifications. The Recipient agrees to comply with FTA requests pertaining to the drafting, review, and approval of construction plans and specifications.

- b. Supervision of Construction. The Recipient agrees to provide and maintain competent and adequate engineering supervision at the construction site to ensure that the completed work conforms to the approved plans and specifications.
- c. Construction Reports. The Recipient agrees to provide progress reports and other data and information as may be required by FTA or the State in which the construction takes place.
- d. Project Management for Major Capital Projects. To the extent applicable, the Recipient agrees to comply with FTA regulations, "Project Management Oversight," 49 C.F.R. Part 633, and FTA Circular 5800.1, "Safety and Security Management Guidance for Major Capital Projects," August 1, 2007, any subsequent Project Management Oversight regulations and guidance FTA may issue.
- e. Seismic Safety. The Recipient agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. §§ 7701 *et seq.*, with Executive Order No. 12699, "Seismic Safety of Federal and Federally-Assisted or Regulated New Building Construction," 42 U.S.C. § 7704 note, and with U.S. DOT regulations, "Seismic Safety," 49 C.F.R. Part 41 (specifically, 49 C.F.R. § 41.117).

Section 24. Employee Protections.

a. Construction Activities. The Recipient agrees to comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the Project, with the following laws and regulations providing protections for construction employees:

(1) Davis-Bacon Act, as amended, 40 U.S.C. §§ 3141 *et seq.*, pursuant to FTA enabling legislation requiring compliance with the Davis-Bacon Act at 49 U.S.C. § 5333(a), and implementing U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. Part 5;

(2) Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 3701 *et seq.*, specifically, the wage and hour requirements of section 102 of that Act at 40 U.S.C. § 3702, and implementing U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. Part 5; and the safety requirements of section 107 of that Act at 40 U.S.C. § 3704, and implementing U.S. DOL regulations, "Safety and Health Regulations for Construction," 29 C.F.R. Part 1926; and

(3) Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. § 874, and implementing U.S. DOL regulations, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States," 29 C.F.R. Part 3.

b. Activities Not Involving Construction. The Recipient agrees to comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the Project, with the employee protection requirements for nonconstruction employees of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 3701 *et seq.*, in particular with the wage and hour requirements of section 102 of that Act at 40 U.S.C. § 3702, and with U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. Part 5.

c. Activities Involving Commerce. The Recipient agrees that the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.*, applies to employees performing Project work involving commerce.

d. Public Transportation Employee Protective Arrangements. If the Grant Agreement or Cooperative Agreement for the Project indicates that public transportation employee protective arrangements required by U.S. DOL apply to public transportation operations performed in connection with the Project, the Recipient agrees to comply with the applicable requirements for its Project as follows:

(1) Standard Public Transportation Employee Protective Arrangements. To the extent that the Project involves public transportation operations and as required by Federal law, the Recipient agrees to implement the Project in accordance with the terms and conditions that the U.S. Secretary of Labor has determined to be fair and equitable to protect the interests of any employees affected by the Project and that comply with the requirements of 49 U.S.C. § 5333(b), and with the U.S. DOL guidelines, “Section 5333(b), Federal Transit Law,” 29 C.F.R. Part 215 and any amendments thereto. These terms and conditions are identified in U.S. DOL's certification of public transportation employee protective arrangements to FTA, the date of which appears in the Grant Agreement or Cooperative Agreement for the Project. The Recipient agrees to implement the Project in accordance with the conditions stated in that U.S. DOL certification. That certification and any documents cited therein are incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The requirements of this Subsection 24.d(1) of this Master Agreement do not apply to Projects for elderly individuals or individuals with disabilities that are authorized by 49 U.S.C. § 5310(a)(2) or subsection 3012(b) of SAFETEA-LU, or to Projects for nonurbanized areas authorized by 49 U.S.C. § 5311; separate requirements for those Projects are contained in Subsections 24.d(2) and (3), respectively, of this Master Agreement.

(2) Public Transportation Employee Protective Arrangements for Elderly Individuals and Individuals with Disabilities for the Elderly Individuals and Individuals with Disabilities Formula Program and Pilot Program. To the extent that the U.S. Secretary of Transportation has determined or determines in the future that employee protective arrangements required by 49 U.S.C. § 5333(b) are necessary or appropriate for a governmental authority subrecipient participating a Project authorized by 49 U.S.C. § 5310(b)(2) or subsection 3012(b) of SAFETEA-LU, 49 U.S.C. § 5310 note, the Recipient agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor necessary to comply with the requirements of 49 U.S.C. § 5333(b), and the U.S. DOL guidelines,

“Section 5333(b), Federal Transit Law,” at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's certification of public transportation employee protective arrangements to FTA, the date of which appears in the Grant Agreement. The Recipient agrees to implement the Project in compliance with the conditions stated in that U.S. DOL certification. That U.S. DOL certification and any documents cited therein are incorporated by reference and made part of the Grant Agreement.

(3) Public Transportation Employee Protective Arrangements for Projects in Nonurbanized Areas Authorized by 49 U.S.C. § 5311. The Recipient agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, U.S. DOL implementing procedures, and any revisions thereto.

Section 25. Environmental Protections.

The Recipient recognizes that many Federal and State laws imposing environmental and resource conservation requirements may apply to the Project. Some, but not all, of the major Federal laws that may affect the Project include: the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 through 4335; the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q and scattered sections of Title 29, United States Code; the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 through 6992k; the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9601 through 9675, as well as environmental provisions within Title 23, United States Code, and 49 U.S.C. chapter 53. The Recipient also recognizes that U.S. EPA, FHWA and other Federal agencies have issued, and in the future are expected to issue, Federal regulations and directives that may affect the Project. Thus, the Recipient agrees to comply, and assures the compliance of each subrecipient and each third party contractor, with any applicable Federal laws, regulations and directives of the Federal Government in effect now or that become effective in the future, except to the extent the Federal Government determines otherwise in writing. Listed below are environmental provisions of particular concern to FTA and the Recipient. The Recipient understands and agrees that those laws, regulations, and directives may not constitute the Recipient's entire obligation to meet all Federal environmental and resource conservation requirements.

a. National Environmental Policy. Federal assistance is contingent upon the Recipient's facilitating FTA's compliance with all applicable requirements and implementing regulations of the National Environmental Policy Act of 1969, as amended, (NEPA) 42 U.S.C. §§ 4321 through 4335 (as restricted by 42 U.S.C. § 5159, if applicable); Executive Order No. 11514, as amended, “Protection and Enhancement of Environmental Quality,” 42 U.S.C. § 4321 note; FTA statutory requirements at 49 U.S.C. § 5324(b); U.S. Council on Environmental Quality regulations pertaining to compliance with NEPA, 40 C.F.R. Parts 1500 through 1508; and joint FHWA/FTA regulations, “Environmental Impact and Related Procedures,” 23 C.F.R. Part 771 and 49 C.F.R. Part 622, and subsequent Federal environmental protection regulations that may be promulgated. As a result of enactment of 23 U.S.C. §§ 139 and 326 as well as amendments to 23 U.S.C. § 138, environmental decision-making requirements imposed on FTA projects to be implemented

consistent with the joint FHWA/FTA final guidance, “SAFETEA-LU Environmental Review Process (Public Law 109-59),” 71 *Fed. Reg.* 66576 *et seq.* November 15, 2006, and any subsequent applicable Federal directives that may be issued, except to the extent that FTA determines otherwise in writing.

b. Air Quality. Except to the extent the Federal Government determines otherwise in writing, the Recipient agrees to comply with all applicable Federal laws, regulations, and directives implementing the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q. In addition:

(1) The Recipient agrees to comply with the applicable requirements of section 176(c) of the Clean Air Act, 42 U.S.C. § 7506(c), consistent with the joint FHWA/FTA document, “Interim Guidance for Implementing Key SAFETEA-LU Provisions on Planning, Environment, and Air Quality for Joint FHWA/FTA Authorities,” dated September 2, 2005, and any subsequent applicable Federal directives that may be issued; with U.S. EPA regulations, “Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act,” 40 C.F.R. Part 51, Subpart T; and “Determining Conformity of Federal Actions to State or Federal Implementation Plans,” 40 C.F.R. Part 93, and any subsequent Federal conformity regulations that may be promulgated. To support the requisite air quality conformity finding for the Project, the Recipient agrees to implement each air quality mitigation or control measure incorporated in the Project. The Recipient further agrees that any Project identified in an applicable State Implementation Plan (SIP) as a Transportation Control Measure will be wholly consistent with the design concept and scope of the Project described in the SIP.

(2) U.S. EPA also imposes requirements implementing the Clean Air Act, as amended, which may apply to public transportation operators, particularly operators of large public transportation bus fleets. Accordingly, the Recipient agrees to comply with the following U.S. EPA regulations to the extent they apply to the Project: “Control of Air Pollution from Mobile Sources,” 40 C.F.R. Part 85; “Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines,” 40 C.F.R. Part 86; and “Fuel Economy of Motor Vehicles,” 40 C.F.R. Part 600.

(3) The Recipient agrees to comply with the notice of violating facility provisions of Section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7414, and facilitate compliance with Executive Order No. 11738, “Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans,” 42 U.S.C. § 7606 note.

c. Clean Water. Except to the extent the Federal Government determines otherwise in writing, the Recipient agrees to comply with all applicable Federal regulations and directives issued pursuant to the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377. Specifically:

(1) The Recipient agrees to protect underground sources of drinking water consistent with the provisions of the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§ 300f through 300j-6.

(2) The Recipient agrees to comply with the notice of violating facility provisions of Section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and facilitate compliance with Executive Order No. 11738, “Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans,” 42 U.S.C. § 7606 note.

d. Use of Public Lands. The Recipient agrees that in implementing its Project, it will not use any publicly owned land from a park, recreation area, or wildlife or waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, and it will not use any land from a historic site of national, state, or local significance, unless the Federal Government makes the findings required by 49 U.S.C. §§ 303(b) and 303(c). The Recipient also agrees to comply with joint FHWA/FTA regulations, “Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites,” 23 C.F.R. Parts 771 and 774, and 49 C.F.R. Part 622, when promulgated.

e. Wild and Scenic Rivers. The Recipient agrees to comply with applicable provisions of the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. §§ 1271 through 1287, relating to protecting components of the national wild and scenic rivers system; and to the extent applicable, with U.S. Forest Service regulations, “Wild and Scenic Rivers,” 36 C.F.R. Part 297, and with U.S. Bureau of Land Management regulations, “Management Areas,” 43 C.F.R. Part 8350.

f. Coastal Zone Management. The Recipient agrees to assure Project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. §§ 1451 through 1465.

g. Wetlands. The Recipient agrees to facilitate compliance with the protections for wetlands of Executive Order No. 11990, as amended, “Protection of Wetlands,” at 42 U.S.C. § 4321 note.

h. Floodplains. The Recipient agrees to facilitate compliance with the flood hazards protections in floodplains in accordance with Executive Order No. 11988, as amended, “Floodplain Management,” 42 U.S.C. § 4321 note.

i. Endangered Species and Fisheries Conservation. The Recipient agrees to comply with protections for endangered species of the Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 through 1544, and the Magnuson Stevens Fisheries Conservation Act, as amended, 16 U.S.C. §§ 1801 *et seq.*

j. Historic Preservation. The Recipient agrees to encourage compliance with the Federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 16 U.S.C. § 470f; Executive Order No. 11593, “Protection and Enhancement of the Cultural Environment,” 16 U.S.C. § 470 note; and the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. §§ 469a through 469c, as follows:

(1) In accordance with U.S. Advisory Council on Historic Preservation regulations, “Protection of Historic and Cultural Properties,” 36 C.F.R. Part 800, the Recipient agrees to consult with the State Historic Preservation Officer concerning investigations to identify

properties and resources included or eligible for inclusion in the National Register of Historic Places that may be affected by the Project, and agrees to notify FTA of affected properties.

(2) The Recipient agrees to comply with all applicable Federal regulations and directives to avoid or mitigate adverse effects on those historic properties, except to the extent the Federal Government determines otherwise in writing.

k. Indian Sacred Sites. The Recipient agrees to facilitate compliance with the preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, in accordance with the American Indian Religious Freedom Act, 42 U.S.C. § 1996, and with Executive Order No. 13007, “Indian Sacred Sites,” 42 U.S.C. § 1996 note, except to the extent that the Federal Government determines otherwise in writing.

l. Mitigation of Adverse Environmental Effects. Should the proposed Project cause or result in adverse environmental effects, the Recipient agrees to take all reasonable measures to minimize the impact of those adverse effects, as required by 49 U.S.C. § 5324(b), and other applicable Federal laws and regulations, including 23 C.F.R. Part 771 and 49 C.F.R. Part 622. The Recipient agrees to comply with all environmental mitigation measures that may be identified as commitments in applicable environmental documents, (*i.e.*, environmental assessments, environmental impact statements, memoranda of agreement, and other documents as required by 49 U.S.C. § 303) and agrees to comply with any conditions the Federal Government might impose in a finding of no significant impact or record of decision. The Recipient agrees that those environmental mitigation measures are incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The Recipient also agrees that any deferred mitigation measures will be incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project as soon as agreement with the Federal Government is reached. The Recipient agrees that those mitigation measures agreed upon may not be modified or withdrawn without the express written approval of the Federal Government.

Section 26. Energy Conservation.

The Recipient agrees to comply with applicable mandatory energy efficiency standards and policies of applicable State energy conservation plans issued in accordance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. §§ 6321 *et seq.*, except to the extent that the Federal Government determines otherwise in writing. To the extent applicable, the Recipient agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA assistance, as provided in FTA regulations, “Requirements for Energy Assessments,” 49 C.F.R. Part 622, Subpart C.

Section 27. State Management and Monitoring Systems.

The Recipient agrees to comply with joint FHWA/FTA regulations, “Management and Monitoring Systems,” 23 C.F.R. Parts 500, Parts A and B, and FTA regulations, “Transportation Infrastructure Management,” 49 C.F.R. Part 614, to the extent applicable.

Section 28. Charter Service Operations.

The Recipient agrees that neither it nor any public transportation operator performing work in connection with a Project financed under 49 U.S.C. chapter 53 or under 23 U.S.C. §§ 133 or 142 will engage in charter service operations, except as authorized by 49 U.S.C. § 5323(d) and FTA regulations, “Charter Service,” 49 C.F.R. Part 604, and any subsequent Charter Service regulations or FTA directives that may be issued, except to the extent that FTA determines otherwise in writing. The Charter Service Agreement the Recipient has selected in its latest annual Certifications and Assurances is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The Recipient understands and agrees that in addition to any remedy specified in the Charter Service Agreement, if a pattern of violations of that agreement is found, the violator will be barred in whole or in part from receiving Federal transit assistance in an amount to be determined by FTA or U.S. DOT. If the Recipient failed to select the Charter Service Agreement in its latest annual Certifications and Assurances to FTA and does conduct charter service operations as covered by FTA’s Charter Service regulations, the Recipient understands and agrees that: (1) the requirements of 49 C.F.R. Part 604 and any subsequent amendments thereto will apply to any charter service it or its subrecipients, lessees, or third party contractors provide; (2) the definitions of 49 C.F.R. Part 604 will apply to this Charter Service Agreement, and (3) a violation of this Charter Service Agreement may require corrective measures and imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

Section 29. School Transportation Operations.

The Recipient agrees that neither it nor any public transportation operator performing work in connection with a Project financed under 49 U.S.C. chapter 53, or under 23 U.S.C. §§ 133 or 142 will engage in school transportation operations for the transportation of students or school personnel exclusively in competition with private school transportation operators, except as authorized by 49 U.S.C. §§ 5323(f) or (g), as applicable, and FTA regulations, “School Bus Operations,” 49 C.F.R. Part 605, and any subsequent School Transportation Operations regulations or FTA directives that may be issued, except to the extent that FTA determines otherwise in writing. The School Transportation Operations Agreement the Recipient has selected in its latest annual Certifications and Assurances is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The Recipient understands and agrees that if it or an operator violates that School Transportation Operations Agreement, the violator will be barred from receiving Federal transit assistance in an amount to be determined by FTA or U.S. DOT. The Recipient understands and agrees that: (1) the requirements of 49 C.F.R. Part 605 will apply to any school transportation service it or its subrecipients, lessees, or third party contractors provide, (2) the definitions of 49 C.F.R. Part 605 will apply to this School Transportation Agreement, and (3) a violation of this School Transportation Agreement may require corrective measures and imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

Section 30. Metric System.

To the extent U.S. DOT or FTA directs, the Recipient agrees to use the metric system of measurement in its Project activities, in accordance with the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act, 15 U.S.C. §§ 205a *et seq.*; Executive Order No. 12770, "Metric Usage in Federal Government Programs," 15 U.S.C. § 205a note; and U.S. DOT or FTA regulations and directives. As practicable and feasible, the Recipient agrees to accept products and services with dimensions expressed in the metric system of measurement.

Section 31. Geographic Information and Related Spatial Data.

In accordance with U.S. OMB Circular A-16, "Coordination of Geographic Information and Related Spatial Data Activities," August 19, 2002, the Recipient agrees to implement its Project so that any activities involving spatial data and geographic information systems activities financed directly or indirectly, in whole or in part, by Federal assistance, are consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

Section 32. Substance Abuse.

To the extent applicable, the Recipient agrees to comply with the following Federal regulations:

- a. Drug-Free Workplace. U.S. DOT regulations, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)," 49 C.F.R. Part 32, that implement the Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 701 *et seq.*
- b. Alcohol Misuse and Prohibited Drug Use. FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 C.F.R. Part 655, that implement 49 U.S.C. § 5331. [New regulations published at 71 *Fed. Reg.* 69195 *et seq.*, November 30, 2006.]

Section 33. Motor Carrier Safety

To the extent applicable, the Recipient agrees to comply with, and assures the compliance of its subrecipients, lessees, and third party contractors with the following regulations promulgated by the U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA):

- a. Financial Responsibility. The Recipient agrees as follows:

- (1) To the extent that the Recipient is engaged in interstate commerce and not within a defined commercial zone, the Recipient agrees to comply with U.S. FMCSA regulations, "Minimum Levels of Financial Responsibility for Motor Carriers," 49 U.S.C. Part 387, setting forth requirements for economic registration and insurance requirements. For Recipients of

Federal assistance under 49 U.S.C. §§ 5307, 5310, or 5311, 49 C.F.R. Part 387 is modified by 49 U.S.C. § 31138(e)(4) which reduces the amount of insurance required of such Recipients to the highest amount of any state in which the transit provider operates.

(2) To the extent that the Recipient is engaged in interstate commerce and not within a defined commercial zone and the Recipient is not a unit of government (defined as Federal Government, a State, any political subdivision of a State or any agency established under a compact between States), the Recipient agrees to comply with U.S. FMCSA regulations, Subpart B, “Federal Motor Carrier Safety Regulations,” at 49 C.F.R. Parts 390 through 396.

b. Driver Qualifications. The Recipient agrees to comply with U.S. FMCSA’s regulations, “Commercial Driver’s License Standards, Requirements, and Penalties,” 49 C.F.R. Part 383.

c. Substance Abuse Rules for Motor Carriers. The Recipient agrees to comply with U.S. FMCSA’s regulations, “Drug and Alcohol Use and Testing Requirements,” 49 C.F.R. Part 382, which apply to transit providers that operate a commercial motor vehicle that has a gross vehicle weight rating over 26,000 pounds or is designed to transport sixteen (16) or more passengers, including the driver.

Section 34. State Safety Oversight of Rail Fixed Guideway Public Systems.

To the extent applicable, the Recipient agrees to comply with 49 U.S.C. § 5330, with FTA regulations, “Rail Fixed Guideway Systems; State Safety Oversight,” 49 C.F.R. Part 659, and any Federal directives that may be issued to implement 49 U.S.C. § 5330, and any subsequent amendment or revision thereto.

Section 35. Federal “\$1 Coin” Requirements.

To the extent required by the Federal Government, the Recipient agrees to comply with the provisions of Section 104 of the Presidential \$1 Coin Act of 2005, 31 U.S.C. § 5112(p), in that the Recipient’s property requiring the use of coins or currency will be fully capable of accepting and dispensing \$1 coins in connection with such use. The Recipient also agrees to display signs and notices denoting such capability on the premises where coins or currency are accepted or dispensed, including on each vending machine.

Section 36. Seat Belt Use.

In accordance with Executive Order No. 13043, “Increasing Seat Belt Use in the United States,” April 16, 1997, 23 U.S.C. § 402 note, the Recipient is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned, rented, or personally operated vehicles, and to include this provision in any third party contracts, third party subcontracts, or subagreements involving the Project.

Section 37. Protection of Sensitive Security Information.

To the extent applicable, the Recipient agrees to comply with 49 U.S.C. § 40119(b) and implementing U.S. DOT regulations, “Protection of Sensitive Security Information,” 49 C.F.R. Part 15, and with 49 U.S.C. § 114(s) and implementing U.S. Department of Homeland Security, Transportation Security Administration regulations, “Protection of Sensitive Security Information,” 49 C.F.R. Part 1520.

Section 38. Special Notification Requirements for States.

To the extent required by Federal law, the State agrees that, in administering any Federal assistance Program or Project supported by the underlying Grant Agreement or Cooperative Agreement, any request for proposals, solicitation, grant application, form, notification, press release, or other publication involving the distribution of Federal assistance for the Program or the Project shall indicate that FTA is the Federal agency that is providing the Federal assistance, the Catalog of Federal Domestic Assistance Number of the program from which the Federal assistance is authorized, as applicable, and the amount provided.

Section 39. Special Provisions for the Urbanized Area Formula Program.

The Recipient agrees that the following provisions apply to Urbanized Area Formula Program assistance authorized under 49 U.S.C. § 5307, and agrees to comply with the requirements thereof, except to the extent that FTA determines otherwise in writing:

- a. Fares and Services. Before increasing fares or instituting a major reduction of service, the Recipient agrees to use its established administrative process to solicit and consider public comment.
- b. Audit Requirements. The Recipient agrees that the Federal Government may conduct, or may require the Recipient to engage an independent entity to conduct, annual or more frequent reviews and audits as required by 49 U.S.C. § 5307(h) and any applicable Federal regulations or directives that may be issued. The Recipient agrees that such audits will be conducted in accordance with U.S. GAO “Government Auditing Standards.”
- c. Half-Fare Requirements. The Recipient agrees that the fares or rates it charges elderly individuals and handicapped individuals during nonpeak hours for public transportation using or involving Project property will not exceed one-half the rates that generally apply to other individuals at peak hours, irrespective of whether the operation of Project facilities or equipment is by the Recipient or by another entity connected with the Project either through lease, third party contract, or otherwise. The Recipient also agrees to give the rate required herein to any individual presenting a Medicare card duly issued to that individual pursuant to Title II or XVIII of the Social Security Act, 42 U.S.C. §§ 401 *et seq.*, or 42 U.S.C. §§ 1395 *et. seq.*, respectively.

d. Use of Formula Assistance for Operations. A Recipient authorized to use Federal assistance authorized under 49 U.S.C. § 5307 to support operations agrees as follows:

(1) The Recipient will comply with the restrictions of 49 U.S.C. §§ 5307(b) and 5307(f) in using Urbanized Area Formula Program assistance for operations, unless permitted otherwise by subsequent Federal law, regulation, or directive.

(2) Federal assistance authorized by 49 U.S.C. § 5307 may be applied to the Net Project Cost of the Recipient's operating expenses incurred during the Project time period as set forth in the Approved Project Budget and, with FTA approval, may be extended to a later date to the extent permitted by law, provided that applicable operating assistance limits are not exceeded.

e. Public Transportation Security. For each fiscal year, the Recipient agrees to spend at least one (1) percent of its Federal assistance authorized under 49 U.S.C. § 5307 for public transportation security projects as described in 49 U.S.C. § 5307(d)(1)(J)(i), unless the Recipient has determined that such expenditures for security projects are not necessary. For a Recipient serving an urbanized area with a population of 200,000 or more, only capital projects are eligible for support with that Federal assistance.

f. Public Transportation Enhancements. If the Recipient serves an urbanized area with a population of 200,000 or more, the Recipient agrees to spend each fiscal year at least one (1) percent of its Federal assistance authorized under 49 U.S.C. § 5307 for public transportation enhancements as defined at 49 U.S.C. § 5302(a), and submit an annual report listing the projects carried out in the preceding fiscal year with that Federal assistance.

g. Reporting Requirements. For each fiscal year, the Recipient agrees to conform, and assures that any public transportation operator to which the Recipient provides Federal assistance authorized under 49 U.S.C. § 5307 will conform to the National Transit Database reporting system and the uniform system of accounts and records required by 49 U.S.C. § 5335(a) for FTA's national transit database. FTA regulations, "Uniform System of Accounts and Records and Reporting System," 49 C.F.R. Part 630, and any subsequent reporting regulations and directives FTA may promulgate.

h. Participation of Subrecipients. The Recipient agrees to enter into a written agreement with each subrecipient participating in an Urbanized Area Formula Project, which agreement sets forth the subrecipient's responsibilities, and includes appropriate clauses imposing requirements necessary to assure that the subrecipient will not compromise the Recipient's compliance with Federal requirements applicable to the Project and the Recipient's obligations under the Grant Agreement for the Project and this Master Agreement.

Section 40. Special Provisions for the Elderly Individuals and Individuals with Disabilities Formula Program and Pilot Program.

The Recipient agrees that the following provisions apply to Elderly Individuals and Individuals with Disabilities Formula Program and Pilot Program assistance authorized under 49 U.S.C.

§ 5310 as amended by SAFETEA-LU and subsection 3012(b) of SAFETEA-LU, 49 U.S.C. § 5310 note, respectively, and agrees to comply with the requirements thereof, except to the extent that FTA determines otherwise in writing:

a. Eligible Subrecipients. The Recipient agrees to provide Federal assistance authorized under 49 U.S.C. § 5310 or subsection 3012(b) of SAFETEA-LU, 49 U.S.C. § 5310 note, only to a subrecipient that qualifies as: (1) a private nonprofit organization meeting the special needs of elderly individuals and individuals with disabilities for whom public transportation services are unavailable, insufficient, or inappropriate; (2) a governmental authority approved by the State to coordinate services for elderly individuals and individuals with disabilities; or (3) a governmental authority that certifies to the Governor that there are no nonprofit organizations in its area readily available to provide service meeting the special needs of the elderly individuals and individuals with disabilities.

b. State Procedures. The Recipient agrees to administer each Project financed with Federal assistance authorized under the Elderly Individuals and Individuals with Disabilities Formula Program in accordance with 49 U.S.C. § 5310. A Recipient participating in the Elderly Individuals and Individuals with Disabilities Pilot Program agrees to administer its Projects in accordance with subsection 3012(b) of SAFETEA-LU, 49 U.S.C. § 5310 note and applicable provisions of 49 U.S.C. § 5310. Except to the extent that FTA determines otherwise in writing, the provisions of FTA Circular 9070.1F, “Elderly Individuals and Individuals with Disabilities Program Guidance and Application Instructions,” including any revisions thereto, and other applicable FTA laws, regulations, and directives, apply to the Project.

c. Participation of Subrecipients. The Recipient agrees to enter into a written agreement with each subrecipient participating in an Elderly Individuals and Individuals with Disabilities Formula Project or Pilot Project, which agreement sets forth the subrecipient’s responsibilities, and includes appropriate clauses imposing requirements necessary to assure that the subrecipient will not compromise the Recipient’s compliance with Federal requirements applicable to the Project and the Recipient’s obligations under the Grant Agreement for the Project and this Master Agreement.

d. Eligible Project Activities. Federal assistance authorized under 49 U.S.C. § 5310 may be used for a Project to meet the special needs of elderly individuals and individuals with disabilities, as follows:

(1) Capital Projects. Except as set forth in Subsection 40.d(2) of this Master Agreement below, only capital projects are eligible for Federal assistance authorized under 49 U.S.C. § 5310, and may include meal delivery service to the extent permitted by 49 U.S.C. § 5310(g).

(2) Operating Assistance Limitation. Only if the Recipient is selected to participate in the Elderly Individuals and Individuals with Disabilities Pilot Program established by subsection 3012(b) of SAFETEA-LU, 49 U.S.C. § 5310 note, may Federal assistance authorized under 49 U.S.C. § 5310 be used to finance operating expenses, and then only 33 percent of the funds apportioned to that Recipient may be used to finance operating expenses for projects to meet the special needs of elderly individuals and individuals with disabilities.

e. Leasing of Vehicles. Vehicles acquired with Federal assistance authorized under 49 U.S.C. § 5310 may be leased to local governmental authorities to improve transportation services to meet the special needs of elderly individuals and individuals with disabilities.

f. Transfer of Project Property. In addition to 49 U.S.C. § 5334(h), which authorizes the transfer of Project property financed with FTA assistance, 49 U.S.C. § 5310(h) also authorizes the Recipient to transfer Project property acquired with Federal assistance authorized under 49 U.S.C. § 5310 to any entity eligible to receive assistance under 49 U.S.C. chapter 53, provided the subrecipient currently possessing the Project property consents to the transfer, and the transferred Project property will continue to be used in accordance with the requirements of 49 U.S.C. § 5310.

Section 41. Special Provisions for the New Freedom Program.

The Recipient agrees that the following provisions apply to New Freedom Program assistance authorized under 49 U.S.C. § 5317, and agrees to comply with the requirements thereof, except to the extent that FTA determines otherwise in writing:

a. General. The Recipient agrees to comply with the requirements of 49 U.S.C. § 5317. Except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with FTA Circular, 9045.1, “New Freedom Program Guidance and Application Instructions,” including any revisions thereto, and other applicable FTA laws, regulations, and directives, that apply to the Project.

b. Participation of Subrecipients. The Recipient agrees to enter into a written agreement with each subrecipient participating in a New Freedom Project, which agreement sets forth the subrecipient’s responsibilities, and includes appropriate clauses imposing requirements necessary to assure that the subrecipient will not compromise the Recipient’s compliance with Federal requirements applicable to the Project and the Recipient’s obligations under the Grant Agreement or Cooperative Agreement for the Project and this Master Agreement.

Section 42. Special Provisions for the Nonurbanized Area Formula Program.

The Recipient agrees that the following provisions apply to Nonurbanized Area Formula Program assistance administered by States and authorized under 49 U.S.C. § 5311(b), and agrees to comply with the requirements thereof, except to the extent FTA determines otherwise in writing:

a. Provisions Applicable to States.

(1) State Procedures. The Recipient agrees to administer each Project in accordance with 49 U.S.C. § 5311(b) and other applicable provisions of 49 U.S.C. § 5311. Except to the extent that FTA determines otherwise in writing, the provisions of FTA Circular 9040.1F,

“Nonurbanized Area Formula Program Guidance and Grant Application Instructions,” including any revisions thereto, and other applicable FTA laws, regulations, and directives apply to the Project.

(2) Participation of Subrecipients. The Recipient agrees to enter into a written agreement with each subrecipient participating in a Nonurbanized Area Formula Project, which agreement sets forth the subrecipient’s responsibilities, and includes appropriate clauses imposing requirements necessary to assure that the subrecipient will not compromise the Recipient’s compliance with Federal requirements applicable to the Project and the Recipient’s obligations under the Grant Agreement for the Project and this Master Agreement.

(3) Eligible Project Activities. Federal assistance provided for the Grant Agreement and subagreements may be used for public transportation Projects in areas other than urbanized areas. Projects financed with Federal assistance transferred from other Federal programs must be eligible for Federal assistance authorized under 49 U.S.C. § 5311(b), and may include purchase of service agreements with private providers of public transportation service, as well as capital and operating assistance, and meal delivery service, to the extent permitted by 49 U.S.C. § 5310(g).

(4) Transfer of Project Property. In addition to 49 U.S.C. § 5334(h), which authorizes the Recipient to transfer Project facilities and equipment, 49 U.S.C. § 5311(h) also authorizes the Recipient to transfer Project property acquired with Federal assistance authorized under 49 U.S.C. § 5311 to any entity eligible to receive Federal assistance authorized under 49 U.S.C. chapter 53, provided that the subrecipient currently in possession of the Project property consents to the transfer, and the transferred Project property will continue to be used in accordance with the requirements of 49 U.S.C. § 5311.

(5) Intercity Transportation. The Recipient agrees to spend a minimum of at least fifteen (15) percent of its Federal assistance authorized under 49 U.S.C. § 5311(f) each fiscal year for intercity transportation Projects, unless the chief executive officer of the State or duly authorized designee has certified to FTA that the intercity bus service needs within the State are being adequately fulfilled.

(6) Reporting Requirements. As required by 49 U.S.C. §§ 5311(b)(4) and 5335(a), the Recipient agrees to conform, and assures that any public transportation operator to which the Recipient provides Federal assistance authorized under 49 U.S.C. § 5311(b) will conform, to the reporting system and the uniform system of accounts and records required by 49 U.S.C. § 5335(a) for FTA’s national transit database and FTA regulations, “Uniform System of Accounts and Records and Reporting System,” 49 C.F.R. Part 630, and any subsequent implementing regulations and directives FTA may issue.

b. Provisions Applicable to Indian Tribes. The Recipient agrees as follows:

(1) To the extent that an Indian tribe is a subrecipient of Federal assistance authorized under 49 U.S.C. § 5311(b), the Indian tribe will be required to comply with the requirements of Subsection 42.a of this Master Agreement that are applicable to other subrecipients of the State

receiving funding derived from 49 U.S.C. § 5311(c)(2), except to the extent that FTA determines otherwise in writing.

(2) An Indian tribe that administers a Tribal Transit Project financed with Federal assistance authorized under 49 U.S.C. § 5311(c)(1) is not subject to the provisions of Subsections 42(a) and 42(b)(1) of this Master Agreement with respect to its implementation of that Tribal Transit Project.

Section 43. Special Provisions for the Clean Fuels Grant Program.

The Recipient agrees that the following provisions apply to Clean Fuels Grant Program assistance authorized under 49 U.S.C. § 5308, and agrees to comply with the requirements thereof, except to the extent that FTA determines otherwise in writing:

a. General. The Recipient agrees to comply with 49 U.S.C. § 5308, and with provisions of 49 U.S.C. § 5307, and other Federal laws that may be applicable, FTA regulations, “Clean Fuels Grant Program,” 49 C.F.R. Part 624, as well as with any other implementing Federal regulations and directives FTA may issue. [New amendments to these FTA regulations have been published at 72 *Fed. Reg.* 15052 *et seq.*, March 30, 2007.]

b. Participation of Subrecipients. The Recipient agrees to enter into a written agreement with each subrecipient participating in a Clean Fuels Grant Project, which agreement sets forth the subrecipient’s responsibilities, and includes appropriate clauses imposing requirements necessary to assure that the subrecipient will not compromise the Recipient’s compliance with Federal requirements applicable to the Project and the Recipient’s obligations under the Grant Agreement for the Project and this Master Agreement.

Section 44. Special Provisions for Research, Development, Demonstration, and Special Studies Projects.

The Recipient agrees to comply with the following provisions pertaining to Projects financed with Federal assistance authorized for research, development, demonstration or special studies projects, except to the extent that FTA determines otherwise in writing:

a. Project Report. The Recipient agrees to:

(1) Prepare and make available a comprehensive report of the results of the Project, the conclusions reached, and the methods used.

(2) Include appropriate notice in the report that: (a) the report is being disseminated under the sponsorship of the U.S. Department of Transportation, Federal Transit Administration, in order to foster information exchange, (b) the U.S. Government assumes no liability or responsibility for the contents of that report or the use of that report, (c) the U.S. Government is not endorsing any manufacturers, products, or services cited in that report, and (d) any trade

name that may appear in that report has been included only because it is essential to the contents of that report.

b. Project Identification. The Recipient agrees that each tangible product resulting from the Project shall contain or include an appropriate sign, designation, or notification stating that the Project has been financed with Federal assistance provided by the U.S. Department of Transportation, Federal Transit Administration. Unless determined otherwise in writing by FTA, this requirement applies to all equipment, hardware, construction, reports, data, or any similar items produced in the course of the Grant Agreement or Cooperative Agreement for the Project.

c. Protection of Human Subjects. The Recipient agrees to comply with the requirements of the National Research Act, Pub. L. 93-348, July 12, 1974, as amended, 42 U.S.C. §§ 289 *et seq.*, and U.S. DOT regulations, "Protection of Human Subjects," 49 C.F.R. Part 11, pertaining to protections for human subjects participating in or involved in research, development, and related activities in connection with the Project.

d. Protection of Animals. The Recipient agrees to comply with the requirements of the Laboratory Animal Welfare Act of 1966, as amended, 7 U.S.C. §§ 2131 *et seq.*, and U.S. Department of Agriculture regulations, "Animal Welfare," 9 C.F.R. Subchapter A, Parts 1, 2, 3, and 4 pertaining to the care, handling, and treatment of warm blooded animals involved in Project research, development, and related activities.

e. Export Control. The Recipient agrees that any technical information developed in the course of implementing the Grant Agreement or Cooperative Agreement for the Project may be subject to export control regulations promulgated by the U.S. Department of Commerce, Bureau of Export Administration, and by other Federal Government departments, including the U.S. Department of State, the U.S. Department of the Treasury, and the U.S. Department of Defense. Thus, the Recipient agrees that it will not export to any countries or foreign persons any technical information or any direct product of that technical information that is subject, directly or indirectly, to U.S. Export Control regulations, without first obtaining the necessary Federal license or licenses and complying with any applicable U.S. Export Control regulations. *See*, Department of Commerce export control regulations, 49 C.F.R. Parts 730 *et seq.*

Section 45. Special Provisions for the Medical Transportation Demonstration Projects.

The Recipient of Federal assistance under the Medical Transportation Demonstration Program agrees to comply with 49 U.S.C. § 5314(a)(6) and other applicable Federal laws, regulations, and directives when issued, except to the extent FTA determines otherwise in writing.

Section 46. Special Provisions for the National Technical Assistance Center for Senior Transportation.

The Recipient of Federal assistance authorized under the National Technical Assistance Center for Senior Transportation agrees to comply with the requirements of 49 U.S.C. § 5314(c) and

other applicable Federal laws, regulations and directives when issued, except to the extent that FTA determines otherwise in writing.

Section 47. Special Provisions for Human Resources Fellowships.

The Recipient agrees that the following provisions apply to Human Resources Fellowships Program assistance authorized under 49 U.S.C. § 5322(b), and agrees to comply with the requirements thereof, except to the extent that FTA determines otherwise in writing:

- a. General. The Recipient agrees to comply with the 49 U.S.C. § 5322(b) and other applicable Federal regulations, and directives, when issued.
- b. Fellowship Awards. The Recipient agrees any individual who receives a fellowship financed with Federal assistance under the Human Resources Fellowships Program will be selected on the basis of demonstrated ability and the contribution the individual reasonably can be expected to make to an efficient public transportation operation.

Section 48. Special Provisions for Job Access and Reverse Commute Formula Grant Program.

The Recipient agrees that the following provisions apply to Job Access and Reverse Commute (JARC) Formula Grant Program assistance authorized under 49 U.S.C. § 5316, and agrees to comply with the requirements thereof, except to the extent that FTA determines otherwise in writing:

- a. General. The Recipient agrees to comply with 49 U.S.C. § 5316, and applicable provisions of 49 U.S.C. § 5307. Except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with FTA Circular, 9050.1, “The Job Access And Reverse Commute (JARC) Program Guidance And Application Instructions,” including any revisions thereto, and other applicable FTA laws, regulations, and directives that apply to the Project.
- b. Participation of Subrecipients. The Recipient agrees to enter into a written agreement with each subrecipient participating in a Job Access and Reverse Commute Project, which agreement sets forth the subrecipient’s responsibilities, and includes appropriate clauses imposing requirements necessary to assure that the subrecipient will not compromise the Recipient’s compliance with Federal requirements applicable to the Project and the Recipient’s obligations under the Grant Agreement or Cooperative Agreement and this Master Agreement.

Section 49. Special Provisions for the Alternative Transportation in Parks and Public Lands Program.

The Recipient agrees that the following provisions apply to Alternative Transportation in Parks and Public Lands Program financial assistance authorized under 49 U.S.C. § 5320, and agrees to

comply with the requirements thereof, except to the extent that FTA determines otherwise in writing:

- a. General. The Recipient agrees to comply with 49 U.S.C. § 5320, and provisions of 49 U.S.C. § 5307 and with other Federal laws that may be applicable, and with Federal regulations and directives, when issued.
- b. FTA Notices. The Recipient agrees to comply with the provisions of the most recent applicable FTA Notices pertaining to the Alternative Transportation in Parks and Public Lands Program, and any subsequent revision thereto. Specifically, the Recipient agrees that the provisions of foregoing documents and revisions thereto will supersede conflicting provisions of this Master Agreement.

Section 50. Special Provisions for Over-the-Road Bus Accessibility Projects.

The Recipient agrees that the following provisions apply to Federal assistance authorized under the Over-the-Road Accessibility Program Grants, and agrees to comply with the requirements thereof, except to the extent that FTA determines otherwise in writing:

- a. General. The Recipient agrees to comply with any applicable Federal directives that may be issued to implement the Over-the-Road Bus Accessibility Program authorized by section 3038 of TEA-21, as amended by section 3039 of SAFETEA-LU, 49 U.S.C. § 5310 note.
- b. Accessibility. The Recipient agrees to comply with the “Over-the-Road Buses,” regulations within U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. Part 37, Subpart H, and with joint U.S. ATBCB/U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. Part 1192 and 49 C.F.R. Part 38.
- c. FTA Notice. The Recipient agrees to comply with the provisions of the most recent applicable FTA Notice pertaining to Over-the-Road Bus Accessibility Program Grants, and any subsequent revision thereto. FTA and the Recipient agree that the provisions of this notice supersede conflicting provisions of this Master Agreement.

Section 51. Special Provisions for State Infrastructure Bank Projects.

The Recipient agrees that the following provisions apply to a Project financed with Federal assistance deposited in a State Infrastructure Bank, and agrees to comply with the requirements thereof:

- a. General. The Recipient agrees to administer its Project in accordance with laws applicable to the SIB that provides Federal assistance for the Project. Federal requirements for the Project may be set forth in: (1) 23 U.S.C. § 610, (2) section 1511 of TEA-21, 23 U.S.C. § 181 note to the extent it has not been superseded by 23 U.S.C. § 610, (3) section 350 of the National

Highway System Designation Act of 1995, as amended, (NHS Act), 23 U.S.C. § 101 note, to the extent it has not been superseded by 23 U.S.C. § 610, (4) any law amending any of the foregoing, and any subsequent law applicable to the Project, (5) any other applicable Federal directives that may be issued, except to the extent FTA determines otherwise in writing, (6) the terms and conditions of U.S. Department of Labor Certification(s) of Public Transportation Employee Protective Arrangements, (7) the Cooperative Agreement establishing the State Infrastructure Bank (SIB) program in the State (entered into by the Federal Highway Administrator, Federal Transit Administrator, and authorized State official), and (8) the FTA Grant Agreement providing Federal assistance for the SIB Project; except, however, any provision of this Master Agreement conflicting with applicable Federal law, applicable Federal SIB Guidelines, the Cooperative Agreement establishing the SIB program within the State, or this Grant Agreement will not apply to the Grant Agreement or the Project to the extent the SIB program is involved, except to the extent FTA determines otherwise in writing.

b. Limitations on Accessing Federal Assistance in the Transit Account. The Recipient understands that the total amount of Federal assistance awarded under the Grant Agreement for the SIB may not be available for immediate withdrawal. Thus, the State agrees to restrict the amount of Federal assistance it withdraws to an amount not exceeding the limitations specified in its Grant Agreement or the Approved Project Budget for that Grant Agreement.

Section 52. Special Provisions for TIFIA Projects.

To the extent applicable, the Recipient agrees to administer each Project financed with Federal assistance authorized under the Transportation Infrastructure Finance and Innovation Act, as amended, in accordance with: (1) 23 U.S.C. §§ 601 through 609, including any further amendments thereto that may be enacted; (2) 49 U.S.C. §§ 5307, 5309, and 5323(o); (3) joint U.S. DOT/FTA regulations, "Credit Assistance for Surface Transportation Projects," 49 C.F.R. Part 80 and 49 C.F.R. Part 640, to the extent those regulations have not been superseded by SAFETEA-LU, and any subsequent amendments to those regulations when promulgated. Any provision of this Master Agreement that conflicts with 23 U.S.C. §§ 601 through 609, 49 U.S.C. §§ 5307, 5309, 5323(o), or the foregoing joint U.S. DOT/FTA regulations, or amendments thereto will not apply to the TIFIA Loan or Loan Guarantee for the Project. The Recipient agrees that FTA may declare the Recipient in violation of the Master Agreement if the Recipient has defaulted on a TIFIA Loan or a Loan guaranteed under TIFIA and such default has not been cured within 90 days.

Section 53. Disputes, Breaches, Defaults, or Other Litigation.

The Recipient agrees that FTA has a vested interest in the settlement of any dispute, breach, default, or litigation involving the Project. Accordingly:

a. Notification to FTA. The Recipient agrees to notify FTA in writing of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Government's interests in the Project or the Federal Government's administration or enforcement of Federal

laws or regulations. If the Recipient seeks to name the Federal Government as a party to litigation for any reason, in any forum, the Recipient agrees to inform FTA in writing before doing so. Each notice to FTA under this Section shall be sent, at a minimum, to the FTA Regional Counsel within whose Region the Recipient operates its public transportation system or implements the Project.

b. Federal Interest in Recovery. The Federal Government retains the right to a proportionate share, based on the percentage of the Federal share awarded for the Project, of proceeds derived from any third party recovery, except that the Recipient may return any liquidated damages recovered to its Project Account in lieu of returning the Federal share to the Federal Government.

c. Enforcement. The Recipient agrees to pursue all legal rights provided within any third party contract.

d. FTA Concurrence. FTA reserves the right to concur in any compromise or settlement of any claim involving the Project and the Recipient.

e. Alternative Dispute Resolution. FTA encourages the Recipient to use alternative dispute resolution procedures, as may be appropriate.

Section 54. Amendments to the Project.

The Recipient agrees that a change in Project circumstances causing an inconsistency with the terms of the Grant Agreement or Cooperative Agreement for the Project or this Master Agreement will require an amendment to the Grant Agreement or Cooperative Agreement for the Project signed by the original signatories or their authorized designees or successors. The Recipient agrees that a change in the fundamental information submitted in its Application will also require an Amendment to its Application or the Grant Agreement or Cooperative Agreement for the Project.

Section 55. FTA's Electronic Management System.

a. Recipient Use. Unless FTA permits otherwise in writing, the Recipient agrees to use FTA's electronic management system to submit information and reports to FTA. FTA, however, reserves the right to determine the extent to which the Recipient may use FTA's electronic management system to execute legal documents pertaining to FTA Projects.

b. TEAM System Terminology. The Recipient and FTA agree that the terms used by FTA in its current Transportation Electronic Management (TEAM) system do not necessarily reflect, and are not intended to be treated as, the exclusive evidence of what such matters as Project, its scope, activities, *etc* include, except to the extent FTA so states in writing. FTA reserves the right to treat information other than that reflected in the TEAM system as determinative of what constitutes the "Project," "Scope of the Project," and "Project Activities."

Section 56. Information Obtained Through Internet Links.

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

Section 57. Severability.

If any provision of the Grant Agreement or Cooperative Agreement for the Project, or this Master Agreement is determined invalid, the remainder of that Agreement shall not be affected if that remainder would continue to conform to the requirements of applicable Federal laws or regulations.