

**FEDERAL SECTION 5311(f)
INTERCITY BUS PROGRAM APPLICATION PACKAGE
For Calendar Year 2022**

**Office of Public Transit
South Carolina Department of Transportation
955 Park Street
Columbia, South Carolina 29201**

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ANNUAL 5311(f) APPLICATION FOR FUNDING

STATE FISCAL YEAR:

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APPLICATION FOR:

- Rural Transit Program (Section 5311(f) No Matching Funds)

APPLICATION CHECKLIST:

The following documents must be submitted in as part of the application process

- Application Part 1: Project Information Document**
- Application Part 2: Narrative Description of System**
- Application Part 3: Budget Information**
- Application Part 4: Supporting Documentation**
 - Copy of Public Hearing Notice with scanned copy of publication “tear sheet”
 - Public Hearing Minutes (indicating minutes of meeting or no meeting requested)
 - Asset Management & Property Inventory Form
- Standard Form 424 Application for Federal Assistance submitted to OPT**
- Certifications and Assurances**

APPLICATION PART 1:

PROJECT INFORMATION

PROJECT INFORMATION:

1. Agency Legal Name

Federal Tax ID Number:

DUNS:

SCEIS Vendor ID:

Web Site Address (if available):

Authorized Official's Name:

Title:

E-mail:

Administration Physical Address:

City:

Zip Code

Phone:

FAX:

Operations Physical Address:

City:

Zip Code

Phone:

FAX:

APPLICATION PART 2:

NARRATIVE DESCRIPTION OF SYSTEM

(Attach any support documents/materials at the end of this application)

SYSTEM DESCRIPTION

1. Current days and hours of operation:

- Monday Hours:
- Tuesday Hours:
- Wednesday Hours:
- Thursday Hours:
- Friday Hours:
- Saturday Hours:
- Sunday Hours:

2. *Of SCDOT vehicles purchased, what is the total mileage traveled in the previous fiscal year?*

3. *Cities Served in South Carolina (list all).*

ESTIMATED LEVEL SERVICE FOR APPLICATION

Estimate each Service Option: Passenger Trips, Revenue Hours and Revenue Miles for the previous State fiscal year (SFY):

	<u><i>Passenger Trips</i></u>	<u><i>Revenue Hours</i></u>	<u><i>Revenue Miles</i></u>
<i>General Public</i>			

4. Scope of Service

*Please describe a detailed summary of services that will be provided during the project fiscal year. Describe any proposed service expansion and planned capital purchases by line item. **Note:** This scope will be used in the subrecipient subcontract agreement.*

APPLICATION PART 3:

BUDGET INFORMATION

*Please download and complete the **Intercity Bus Budget Form** from [scdot.org](http://www.scdot.org) website <https://www.scdot.org/inside/inside-PublicTransit.aspx> under Annual Funding Announcement and Required Forms.*

I. INTRODUCTION

The South Carolina Department of Transportation (SCDOT) Office of Transit is accepting applications for its Calendar Year 2022 Section 5311(f), Intercity Bus Program, as prescribed by the Federal Transit Administration's (FTA) Non-urbanized Area Formula Program (Section 5311) guidance. (FTA Circular 9040.1G)

The FTA has defined intercity bus service as:

Regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available. Package express service may also be included, if incidental to passenger transportation. Intercity service is not limited by the size of the vehicle used or by the identity of the carrier.

FTA provides the following characteristics of intercity bus service:

- ◆ Regularly scheduled bus service;
- ◆ Available to the general public;
- ◆ Makes limited stops;
- ◆ Operates on fixed routes;
- ◆ Connects two or more urban areas not in close proximity;
- ◆ Makes meaningful connections (if available);
- ◆ Predominantly passenger service (any package/goods service must be incidental);
- ◆ Not a commuter service; and
- ◆ Not air, water, or rail service (bus only).

Additionally, the U.S. General Accounting Office (GAO) has defined intercity bus service as regular route service that meets the following criteria:

- ◆ Operates between two or more cities, towns, or isolated clusters;
- ◆ Operates on a fixed schedule;
- ◆ Carries the general public and is not subject to preconditions for passage; and
- ◆ Does not operate wholly within urbanized areas.

SCDOT also recognizes that smaller private and public transportation operators, such as rural general public providers, can supplement the core intercity network by providing feeder service to connect with existing intercity service.

The FTA requires that states receiving Section 5311 Program funds expend a maximum of 15 percent of those funds on an intercity bus program, unless the Governor certifies that intercity bus needs in that state are being adequately met

SCDOT recognizes the importance of establishing a seamless public transportation network across the state, as well as providing citizens access to intercity, intrastate, regional, and connector services to

other modes of transportation (including intercity bus, air, and passenger rail services). SCDOT has established the Intercity Bus Program to provide funding to meet this objective.

Operations Emphasis

Based on the results of the 2018 South Carolina Intercity Bus Study and input provided by the state's intercity carriers and rural public transportation providers, the primary emphasis of SCDOT will continue to utilize 5311(f) Intercity Bus Program funds to provide assistance based on the stated needs of our Intercity Bus Providers. This can be accomplished by providing traditional intercity route service or feeder connections to existing intercity services.

Roles of the State (SCDOT)

The Office of Public Transit will, at a minimum, will provide statewide oversight and document any findings, review and approve applications and other program-related documentation, issue contracts to approved applicants, and process requests for reimbursement for allowable project expenses.

II. POLICY

Eligible Applicants

To be eligible to submit an application for funding under the Section 5311(f) program, the applicant must be one of the following (FTA Circular 9040.1G, Page III-5, Section 2):

- ◆ Intercity bus providers;
- ◆ Private non-profit transportation providers;
- ◆ Private for-profit transportation providers;
- ◆ Local public transportation providers providing, or proposing to provide, feeder service to intercity carriers, or operation of a user-sider-subsidy program; or
- ◆ Indian tribes and groups.

Note that at the discretion of SCDOT Office of Public Transit, funds may be passed through to a local agency that will subcontract with a third-party for-profit operator/administrator to provide the intercity bus service, feeder service, or user-side-subsidy program, and/or SCDOT may contract directly with a for-profit operator. This decision may vary among the proposed services, depending upon the applicant and type of applications received.

Eligible Projects

While it is anticipated that traditional intercity bus service will be the primary type of service funded with the Section 5311(f) funds, the Intercity Bus Program will also fund services that operate as feeder services to intercity bus routes. These services must be open to the general public, but may have characteristics that differ from those described above as intercity services. For example, feeder services may be demand-responsive in nature, or smaller vehicles may be used. At the same time, feeder services must make meaningful connections with intercity services at common terminals and at times that provide for convenient connections. Such feeder services should have as their primary purpose the provision of a connection to the intercity bus network. Otherwise, only that portion of the feeder

service expenses that are reasonably attributable to intercity bus service are eligible for Section 5311(f) funding. An example of this would be the extension of an existing bus route to serve the local intercity bus station. In this case, only the cost of the route extension would be eligible.

With an emphasis on operations and due to limited funding, the goal of the Intercity Bus Program should be the preservation of cost effective existing intercity bus services. The next priority is development of new intercity services, or feeder service to existing intercity routes from areas that do not currently have intercity connections especially between the I-85 and I-26 corridor, and along I-77 towards Charlotte, NC. SCDOT should also assist in maintaining a State of Good Repair for capital assets as well as replacement of assets that have reached their Useful Life based on FTA standards.

SCDOT requires that all services provided with Section 5311(f) funds offer users a meaningful connection with the national intercity bus network, including interline (joint) ticketing and service connections that are shown in the public timetables for the services. In addition, all projects funded under this program must provide for the marketing of the services to the general public. Requests for operating or capital assistance must include in their project description information about specific marketing efforts.

Current Section 5311(f) Supported Intercity Bus Service

SCDOT currently utilizes the 15 percent Section 5311(f) allocation to fund to support the following intercity bus routes/stops that are operated by Greyhound and Southeastern Stage carriers. **SCDOT only participates in the portion of the route that is operated within the State of South Carolina.**

- ◆ Anderson, Greenville, Duncan, Spartanburg;
- ◆ Columbia, Orangeburg, Walterboro, Beaufort
- ◆ Florence , Myrtle Beach Aiken, Camden
- ◆ Georgetown. Summerville, Sumter

Available Intercity Bus Service Allocation

As required by FTA, SCDOT will allocate up to 15% of its annual Section 5311 Non-urbanized Area Formula Program apportionment with the intent of expending those available funds based on the stated needs of the Intercity Bus provider. Therefore, for calendar year 2022, SCDOT will make funding available based on justifiable needs and availability of funds to support the intercity bus network service in South Carolina. Should funding requests exceed available Section 5311(f) funds, eligible projects may receive less than the amount requested or be placed in alternate status pending additional Section 5311(f) funds being available.

Local Match Requirement/In-Kind Calculation

Section 5311(f) funds can be used to provide up to fifty percent (50%) of the net cost of service. The net cost of service is determined by subtracting passenger revenue from total operating expenses. The remaining 50 percent of the net cost of service must be provided with cash, and/or “In-Kind Match.”

FTA Circular 9040.1G states that “Section 5311(g)(3)(D) provides that in the case of an intercity bus project that includes both feeder service and an unsubsidized segment of intercity bus service to which

the feeder service connects, the local match may be derived from the costs of a private operator for the unsubsidized segment of intercity bus service as an in-kind match for the operating costs of connecting rural intercity feeder service funder under Section 5311(f).”

The private operator must agree in writing to the use of the costs of the private operator for the unsubsidized segment of intercity bus service as an in-kind match. This letter must include the funding amount to be used for in-kind match. This documentation must be included in the application submittal. To be considered eligible as in-kind match, the cost must be otherwise allowable as a cost under the Section 5311(f) program, and, therefore, must connect the rural community to further points.

FTA allows the following two methods for the private operator to determine the eligible net cost of the unsubsidized segment.

1. The private operator is presumed to be collecting at least enough in fares to cover the operating costs of the unsubsidized service, and thus only the capital costs of the unsubsidized service may be used as in-kind match. To simplify matters, FTA will use the percentages allowed in the capital cost of contracting guidance to determine how much of the private operator’s total costs are attributable to capital. (e.g., 50 percent where the operator provides and maintains all equipment, less if FTA-funded equipment is provided).
2. The private operator can directly calculate the net project cost of the unsubsidized segment and must provide to FTA verifiable information showing the eligible capital and operating expenses as well as fare revenues attributable to the unsubsidized segment that were used to make the calculation.

FTA Circular 9040.1G provides the following example of how the private operator can determine the eligible net cost of the unsubsidized route segment.

1. Feeder service: point A to B (\$15,000 total cost less \$5,000 fare box revenue equals \$10,000 net project cost to be matched by \$5,000 of 5311(f) funds).
2. Connecting unsubsidized private service:
 - a. Method 1: point B to C: \$10,000 net project cost based on 50% capital cost of contracting guidance.
 - b. Method 2: point B to C: \$10,000 net project cost based on \$15,000 in operating costs, \$5,000 in capital costs and subtracting \$10,000 in fare box revenues (\$15K + \$5K - \$10K).
3. The FTA Section 5311(f) project is defined as service from A to C. The net project cost is \$20,000 (\$10,000 from A to B and \$10,000 from B to C). FTA Section 5311(f) can fund \$10,000, matched with \$10,000 contributed by the private operator, in the B-C segment.

The examples above assume a 50/50 match ratio for operating assistance. In those situations where there is excess in-kind match available from the net project costs of the private provider, it cannot be used to increase the Section 5311(f) share above the actual operating deficit of the project. If there is not enough capital in-kind match to equal the Section 5311(f) funds needed to cover the operating deficit, the applicant would have to produce the difference in cash.

Each project using the in-kind match formula must provide a description of the feeder service and the connecting service, identifying locations served by each, and the connections. Only those runs that actually connect with the feeder service can be used for match. For example, if the private operator makes four trips per day through point B but the feeder service only operates twice daily, only the capital costs of the two daily connecting trips can be used as in-kind match. The application must include the calculation of the in-kind match for each applicable route.

Federal/State Regulatory Compliance

Recipients of Section 5311(f) funds must comply with all Federal/state regulatory requirements and provisions including, but not limited to, Drug and Alcohol Testing, Americans with Disabilities Act, Title VI, Section 5333(b) Labor Protection, DBE, Lobbying, and applicable certifications and assurances. Applicants will be required to provide this information following the selection of their application, not as part of the original grant application package. Selected public or private non-profit applicants will also be required to provide a resolution from their governing board in support of the service.

III. SCOPE OF SERVICES

The following Scope of Services and all pertinent attachments and exhibits will become part of the contract with the applicant/operator selected to provide the requested services.

Description of Services Being Requested

Applications may be submitted for the currently supported intercity bus routes as noted previously in Section II and/or for new intercity bus routes or feeder services, or for capital projects. Service should provide “meaningful connections” to the national intercity bus network. This can be done with coordinated schedules and with interline agreements and/or through-service. Capital projects can be for replacement or expansion of rolling stock, facility improvements, and preventative maintenance on SCDOT funded assets.

Intercity service providers crossing state lines are required to comply with Federal Motor Carrier Safety Administration (FMCSA) regulations. Also, providers of intrastate service that interlines with services to provide interstate trips must meet FMCSA regulations. A signed statement of intent to maintain or acquire FMCSA authority must be submitted with the application. More information on those requirements is available at: <http://www.fmcsa.dot.gov/>.

Coordination/Public Outreach

In an effort to ensure as much of a seamless transportation system as possible, it is intended that projects provide for convenient connections between local and intercity modes to the greatest extent possible. Developing these connections will require coordination with local community transportation services along proposed routes, coordination with intercity bus carriers and their schedules and terminals, and coordination with commercial air and intercity passenger rail services. This includes meaningful connections at common terminals, reasonable waits between transfers, and to the extent possible, joint fares and common ticketing. The application should describe in sufficient detail the resulting coordinated service with other transportation providers.

Ticketing and Schedules

Ticket Agents

The provision of the intercity bus services includes securing ticket agents. Locations of the ticket agents should be in facilities that provide safety, shelter, telephone, rest room, light, heat, and parking, where possible. Such locations may include, but are not limited to, public buildings and facilities and private businesses. SCDOT requires that every effort be made to secure ticket agent locations that are accessible for persons with disabilities.

Passenger Facilities

Boarding and alighting locations for passengers are needed. Where possible, these locations should provide safety, shelter, telephone, rest room, light, heat, and parking. SCDOT also asks that every effort be made to identify locations that are accessible for persons with disabilities.

Schedule

The operation of intercity bus service requires development and distribution of a schedule or timetable that identifies each passenger boarding and alighting location. The Office of Public Transit suggests that this schedule be developed as part of a brochure that is designed as a marketing and public information tool. This schedule/brochure must be widely distributed and made available to SCDOT, all ticket agents secured as part of this service, local transit agencies, and the general public, including those who are elderly and those with disabilities. The applicant/carrier must also ensure that the route schedule is included in relevant motor coach publication/website.

Interline Agreements

Interlining is defined as transportation that is provided by two or more carriers, under a single through ticket, at a single through fare, and the revenue derived from each passenger is divided between the participating carriers at a rate agreed upon by the participating carriers.¹

Vehicles

Type of Vehicle

The operator is responsible for providing vehicles for the provision of services. All vehicles, except those for regional or feeder service, must have a lavatory and a baggage storage area. All vehicles must have air conditioning and heating. All vehicles must be maintained in compliance with all applicable Federal and state laws and regulations, as well as the manufacturer's maintenance schedule. The exterior and interior of vehicles must be cleaned on a regular basis. While it is not a requirement that a full size coach be used for these services, operators are encouraged to utilize an over-the-road coach for all services with the exception of feeder service. Vehicles should have clearly visible exterior signage indicating that the vehicle is providing intercity bus service.

Inspection of Vehicles

Vehicles used for the service are subject to inspection by Federal and state representatives. The carrier is responsible for repairing and/or replacing any items determined to be unsatisfactory in an inspection.

¹ *Federal Motor Carrier Safety Administration Regulations and Interlining Transportation for Rural Transit Providers-National RTAP, Updated 2008

Should the vehicle need to be taken out of service for repairs/maintenance, a comparable back-up vehicle must be available to provide the scheduled service.

Service to Passengers with Disabilities: Compliance with the Americans with Disabilities Act

Intercity bus projects must adhere to all Federal Transit Administration regulations including the Americans with Disabilities Act (ADA) by addressing the mobility needs of persons with disabilities. All services operated under this program must meet the applicable requirements for accessible service as defined by the ADA. Requirements differ based on the status of the entity (public or private), the type of vehicle, the size of the entity (if private) and the overall mix of service provided by the entity. Applications must include information on the applicable regulations for the service proposed and how the applicant will meet those regulations.

It should be noted that private operators of Over-the-Road Buses (OTRBs) are required to provide accessible service as described in the ADA Final Rule. All applicants will need to address this issue in their application. Additional information regarding this requirement can be found at: <http://www.fmcsa.dot.gov/regulations/americans-disabilities-act-reporting-and-other-requirements-over-road-bus-companies>.

Service Interruptions

Intercity bus service may be interrupted due to vehicle breakdown or severe weather condition. The carrier must provide a contingency plan for such service interruptions, which shall include, but is not limited to, provision of food and/or hotel accommodations for affected passengers.

IV. CONTRACT FOR SERVICE

Term of Contract

Provision of the intercity bus service in accordance with the Scope of Services in this application package will continue for a period of one (1) year. Note that the SCDOT Office of Transit will assess the operation of the service on a regular basis to determine whether to continue a project for a second year. SCDOT reserves the right to discontinue a project if the service is not meeting expectations and/or program goals.

Performance Measures

Performance measures for selected projects will be evaluated on a regular basis to monitor the success of the service. The agreed upon performance measures will contribute directly to the consideration for continued funding of the project in subsequent years. The Office of Public Transit will work directly with the applicant throughout the term of the contract to determine if the performance of service justifies its continuation and discuss service adjustments that might prove more beneficial to the area being served. Performance indicators include, but are not limited to:

- ◆ Ridership comparable to projections in application;
- ◆ Total in state passenger miles provided by route and total in-state miles on each coach purchased with funds secured by SCDOT;
- ◆ Cost per mile operated; and
- ◆ Effectiveness of marketing activities.

Record Keeping

The Office of Public Transit requires that the operator keep records on the services provided, total project costs and marketing efforts. Provider must also provide preventative maintenance records upon request for all assets purchased with 5311(f) funds secured by SCDOT. Records must be retained for at least three years following payment of the final invoice. Data to be recorded and reported is addressed below.

General Information

The Intercity Bus Application should be submitted electronically to The Office of Public Transit by **5:00 PM on April 15, 2022**. Applicants who are unable to submit the application electronically may submit the application by mail or hand deliver to the address noted below. Late applications shall not be accepted and shall automatically be disqualified from further consideration. One original hard copy must also be submitted by this deadline.

Ann Solan, Program Manager
South Carolina Department of Transportation
955 Park Street, Room 201
Post Office Box 191
Columbia, South Carolina 29202
(803) 737-0531
SolanAM@scdot.org

FTA FISCAL YEAR 2022 CERTIFICATIONS AND ASSURANCES

01. CERTIFICATIONS AND ASSURANCES REQUIRED OF EACH APPLICANT **(ONLY SUBMIT CHECKLIST AND SIGNATURE pgs. with APPLICATION)**

Each Applicant for Federal Section 5311 funds awarded through the South Carolina Department of Transportation must make all applicable certifications and assurances in this section. Accordingly the Federal Transit Administration may not award any Federal assistance until the Applicant provides assurances of compliance by selecting the applicable Categories on the signature page at the end of this section. Category 01 applies to all Applicants. Category 02 applies to all applications for Federal assistance in excess of \$100,000, unless your applicant is an Indian tribe or organization or a tribal organization. Categories 03 through 21 will apply to and be required for some, but not all, Applicants and projects. Please be aware, this process ONLY excludes you from submitting documents with your application, NOT from collecting documents and having them on file.

The Applicant also understands and agrees that these certifications and assurances are special pre-award requirements specifically prescribed by Federal law or regulation and do not encompass all Federal laws, regulations, and directives that may apply to the Applicant or its project. A comprehensive list of those Federal laws, regulations, and directives is contained in the current FTA Master Agreement, MA(28), for Federal Fiscal Year 2021 at the FTA website <http://www.fta.dot.gov/>.

01.A. Certifications and Assurances of Authority of the Applicant and Its Authorized Representative.

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

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

01.B. Standard Assurances.

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

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

Award, except as FTA determines otherwise in writing.

6. Except as FTA determines otherwise in writing, it agrees that requirements for FTA programs may vary depending on the fiscal year for which the federal assistance for those programs was appropriated or made available.

01.C. Intergovernmental Review Assurance.

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

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

01.D. Nondiscrimination Assurance.

On behalf of your Applicant, you assure that:

1. It will comply with the following laws, regulations, and requirements so that no person in the United States will be denied the benefits of, or otherwise be subjected to discrimination in, any U.S. DOT or FTA assisted program or activity (particularly in the level and quality of transportation services and transportation-related benefits) on the basis of race, color, national origin, religion, sex, disability, or age including:
 - a. Federal transit laws, specifically 49 U.S.C. § 5332 (prohibiting discrimination on the basis of race, color, religion, national origin, sex (including gender identity), disability, age, employment, or business opportunity),
 - b. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d,
 - c. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* (prohibiting discrimination on the basis of race, color, religion, sex, (including gender identity and sexual orientation) or national origin),
 - d. Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs,
 - e. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 *et seq.*,
 - f. U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25,
 - g. The Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, *et seq.*,
 - h. The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*,
 - i. U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR part 21,
 - j. U.S. DOT regulations, specifically 49 CFR parts 27, 37, 38, and 39, and
 - k. Any other applicable federal statutes that may be signed into law, federal regulations that may be issued, or federal requirements that may be imposed.
2. It will comply with federal guidance implementing federal nondiscrimination laws, regulations, or requirements, except as FTA determines otherwise in writing.
3. As required by 49 CFR § 21.7:
 - a. It will comply with 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 in the manner that:
 - (1) It implements its Award
 - (2) It undertakes property acquisitions, and
 - (3) It operates all parts of its facilities, as well as its facilities operated in connection with its Award.
 - b. This assurance applies to its Award and to all parts of its facilities, as well as its facilities used to implement its Award.
 - c. It will promptly take the necessary actions to carry out this assurance, including the following:
 - (1) Notifying the public that discrimination complaints about transportation-related services or benefits may be filed with U.S. DOT or FTA Headquarters Office of Civil Rights, and

- (2) Submitting information about its compliance with these provisions to U.S. DOT or FTA upon their request.
- d. If it transfers U.S. DOT or FTA assisted real property, structures, or improvements to another party, any deeds and instruments recording that transfer will contain a covenant running with the land assuring nondiscrimination:
- (1) While the property is used for the purpose that the federal assistance is extended, or
 - (2) While the property is used for another purpose involving the provision of similar services or benefits.
- e. The United States has a right to seek judicial enforcement of any matter arising under:
- (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
 - (2) U.S. DOT regulations, 49 CFR part 21, or
 - (3) This assurance.
- f. It will make any changes in its Title VI implementing procedures, as U.S. DOT or FTA may request, to comply with:
- (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
 - (2) U.S. DOT regulations, 49 CFR part 21, and
 - (3) Federal transit law, 49 U.S.C. § 5332.
- g. It will comply with applicable federal guidance issued to implement federal nondiscrimination requirements, except as FTA determines otherwise in writing.
- h. It will extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each Third Party Participant, including any:
- (1) Subrecipient,
 - (2) Transferee,
 - (3) Third Party Contractor or Subcontractor at any tier,
 - (4) Successor in Interest,
 - (5) Lessee, or
 - (6) Other Participant in its Award, except FTA and the Applicant (and later, the Recipient).
- i. It will include adequate provisions to extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each third party agreement, including each:
- (1) Sub agreement at any tier,
 - (2) Property transfer agreement,
- j. The assurances you have made on your Applicant's behalf remain in effect as long as FTA determines appropriate, including, for example, as long as:
- (1) Federal assistance is provided for its Award,
 - (2) Its property acquired or improved with federal assistance is used for a purpose for which the federal assistance is extended, or for a purpose involving similar services or benefits,
 - (3) It retains ownership or possession of its property acquired or improved with federal assistance provided for its Award,
 - (4) It transfers property acquired or improved with federal assistance, for the period during which the real property is used for a purpose for which the financial assistance is extended or for another purpose involving the provision of similar services or benefits, or
 - (5) FTA may otherwise determine in writing.
4. As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR part 27, specifically 49 CFR 27.9, and consistent with 49 U.S.C. 5332, you assure that:
- a. It will comply with the following prohibitions against discrimination based on disability listed below in subsection 4.b of this Category 01.D Assurance, of which compliance is a condition of approval or extension of any FTA assistance awarded to:
- (1) Construct any facility,
 - (2) Obtain any rolling stock or other equipment,
 - (3) Undertake studies,
 - (4) Conduct research, or
 - (5) Participate in any benefit or obtain any benefit from any FTA administered program.
- b. In any program or activity receiving or benefiting from federal assistance that U.S. DOT administered, no qualified individual with a disability will, because of his or her disability, be:
- (1) Excluded from participation,
 - (2) Denied benefits, or
 - (3) Otherwise subjected to discrimination.

01.E. Procurement Certification.

The Applicant agrees to comply with:

- a. U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 200, particularly 2 CFR § 200.317-26 "Procurement Standards;"
- b. Federal laws, regulations, and requirements applicable to FTA procurements; and
- c. The latest edition of FTA Circular 4220.1 and other applicable federal guidance.

01.F. Suspension and Debarment, Tax Liability, and Felony Convictions Certifications.

01.F.1 Suspension and Debarment.

On behalf of your Applicant, you certify that:

- a. It will comply and facilitate compliance with U.S. DOT regulations, "Non procurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government wide Debarment and Suspension (Non procurement)," 2 CFR part 180.
- b. To the best of its knowledge and belief, that it's Principals and Sub recipients at the first tier:
 - (1) Are eligible to participate in covered transactions of any federal department or agency and are not presently:
 - (a) Debarred,
 - (b) Suspended,
 - (c) Proposed for debarment
 - (d) Declared ineligible,
 - (e) Voluntarily excluded, or
 - (f) Disqualified.
 - (2) Within a three-year period preceding its latest application or proposal, its management has not been convicted of or had a civil judgment rendered against any of them for:
 - (a) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction, or contract under a public transaction,
 - (b) Violation of any federal or state antitrust statute, or
 - (c) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property.
 - (3) It is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission n of any of the offenses listed in the preceding subsection 2.b of this Certification.
 - (4) It has not had one or more public transactions (federal, state, or local) terminated for cause of default within a three-year period preceding this Certification.
 - (5) If, at a later time, it receives any information that contradicts the preceding statements of subsections 2.a – 2.d of the Category 01.E Certification, it will promptly provide that information to FTA.
 - (6) It will treat each lower tier contract or subcontract under its Award as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
 - (a) Equals or exceeds \$25,000,
 - (b) Is for audit services, or
 - (c) Requires the consent of a federal official.
 - (7) It will require that each covered lower tier contractor and subcontractor:
 - (a) Comply and facilitate compliance with the federal requirements of 2 CFR parts 180 and 1200, and
 - (b) Assure that each lower tier participant in its Award is not presently declared by any federal department or agency to be:
 - 1 Debarred from participation in any federally assisted Award,
 - 2 Suspended from participation in any federally assisted Award,
 - 3 Proposed for debarment from participation in any federally assisted Award,
 - 4 Declared ineligible to participate in any federally assisted Award,
 - 5 Voluntarily excluded from participation in any federally assisted Award, or

6 Disqualified from participation in any federally assisted Award.

c. It will provide a written explanation if it or any of its principals, including any of its first tier Sub recipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Category 01.E.1 Certification.

01.F.2. Tax Liability.

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

- a. Your Applicant and its prospective Sub recipients have no unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- b. Your Applicant and its Sub recipients will follow applicable U.S. DOT guidance when issued.

01.F.3. Felony Convictions.

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

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

01.G. U.S. OMB Assurances in SF-424B and SF-424D.

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

1. *Administrative Activities.* On behalf of your Applicant, you assure that:

a. For any application it submits for federal assistance, it has adequate resources to plan, manage, and properly complete the tasks to implement its Award, including:

- (1) The legal authority to apply for federal assistance,
- (2) The institutional capability,
- (3) The managerial capability, and
- (4) The financial capability (including funds sufficient to pay the non-federal share of the cost of incurred under its Award).

b. As required, it will give access and the right to examine materials related to its Award to the following entities or individuals, including, but not limited to:

- (1) FTA,
- (2) The Comptroller General of the United States, and
- (3) The State, through an appropriate authorized representative.

c. It will establish a proper accounting system in accordance with generally accepted accounting standards or FTA guidance.

d. It will establish safeguards to prohibit employees from using their positions for a purpose that results in:

- (1) A personal or organizational conflict of interest or personal gain, or
- (2) An appearance of a personal or organizational conflict of interest or personal gain.

2. *Specifics of the Award.* On behalf of your Applicant, you assure that:

a. It will begin and complete work within the period of performance that applies following receipt of an FTA Award.

b. For FTA assisted construction Awards:

- (1) It will comply with FTA provisions concerning the drafting, review, and approval of construction plans and specifications,
- (2) It will provide and maintain competent and adequate engineering supervision at the construction site to assure that the completed work conforms to the approved plans and specifications,
- (3) It will include a covenant to assure nondiscrimination during the useful life of the real property financed under its Award in its title to that real property,
- (4) To the extent FTA requires, it will record the federal interest in the title to FTA assisted real property or

interests in real property, and

(5) It will not alter the site of the FTA assisted construction or facilities without permission or instructions from FTA by:

- (a) Disposing of the underlying real property or other interest in the site and facilities,
- (b) Modifying the use of the underlying real property or other interest in the site and facilities, or
- (c) Changing the terms of the underlying real property title or other interest in the site and facilities.

c. It will furnish progress reports and other information as FTA or the state may require.

3. *Statutory and Regulatory Requirements.* On behalf of your Applicant, you assure that:

a. Your Applicant will comply with all federal laws, regulations, and requirements relating to nondiscrimination that apply, including, but not limited to:

(1) The prohibitions against discrimination on the basis of race, color, or national origin, as provided in Title VI of the Civil Rights Act, 42 U.S.C. § 2000d.

(2) The prohibitions against discrimination on the basis of sex, as provided in:

(a) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 – 1683, and 1685 – 1687, and

(b) U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR part 25.

(3) The prohibitions against discrimination on the basis of age in federally assisted programs, as provided in the Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 – 6107.

(4) The prohibitions against discrimination on the basis of disability in federally assisted programs, as provided in section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794.

(5) The prohibitions against discrimination on the basis of disability, as provided in the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 .

(6) The prohibitions against discrimination in the sale, rental, or financing of housing, as provided in Title VIII of the Civil Rights Act, 42 U.S.C. § 3601 *et seq.*

(7) The prohibitions against discrimination on the basis of drug abuse, as provided in the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 *et seq.*

(8) The prohibitions against discrimination on the basis of alcohol abuse, as provided in the Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, as amended, 42 U.S.C. § 4541 *et seq.*

(9) The confidentiality requirements for records of alcohol and drug abuse patients, as provided in the Public Health Service Act, as amended, 42 U.S.C. § 290dd – 290dd-2.

(10) The prohibitions against discrimination in employment as provided in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*,

(11) The nondiscrimination provisions of any other statute(s) that may apply to its Award.

b. As provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Relocation Act), 42 U.S.C. § 4601 *et seq.*, and 49 U.S.C. § 5323(b), regardless of whether federal assistance has been provided for any real property acquired or improved for purposes of its Award:

(1) It will provide for fair and equitable treatment of any displaced persons or any persons whose property is acquired or improved as a result of federally assisted programs.

(2) It has the necessary legal authority under state and local laws, regulations, and requirements to comply with:

(a) The Uniform Relocation Act. 42 U.S.C. § 4601 *et seq.*, as specified by 42 U.S.C. §§ 4630 and 4655, and

(b) U.S. DOT regulations, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,” 49 CFR part 24, specifically 49 CFR § 24.4.

(3) It has complied with or will comply with the Uniform Relocation Act and implementing U.S. DOT regulations because:

(a) It will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24.

(b) As provided by 42 U.S.C. §§ 4622, 4623, and 4624, and 49 CFR part 24, if its Award results in displacement, it will provide fair and reasonable relocation payments and assistance to:

1 Displaced families or individuals, and

2 Displaced corporations, associations, or partnerships.

(c) As provided by 42 U.S.C. § 4625 and 49 CFR part 24, it will provide relocation assistance programs offering the services described in the U.S. DOT regulations to such:

- 1 Displaced families and individuals, and
- 2 Displaced corporations, associations, or partnerships.
- (d) As provided by 42 U.S.C. § 4625(c)(3), within a reasonable time before displacement, it will make available comparable replacement dwellings to families and individuals.
- (e) It will do the following:
 - 1 Carry out the relocation process to provide displaced persons with uniform and consistent services, and
 - 2 Make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin.
- (f) It will be guided by the real property acquisition policies of 42 U.S.C. §§ 4651 and 4652.
- (g) It will pay or reimburse property owners for their necessary expenses as specified in 42 U.S.C. §§ 4653 and 4654, understanding that FTA will provide federal assistance for its eligible costs of providing payments for those expenses, as required by 42 U.S.C. § 4631.
- (h) It will execute the necessary implementing amendments to FTA assisted third party contracts and sub agreements.
- (i) It will execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement these assurances.
- (j) It will incorporate these assurances by reference into and make them a part of any third party contract or sub agreement, or any amendments thereto, related to its Award that involves relocation or land acquisition.
- (k) It will provide in any affected document that these relocation and land acquisition provisions must supersede any conflicting provisions.
- c. It will comply with the Lead-Based Paint Poisoning Prevention Act, specifically 42 U.S.C. § 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures.
- d. It will, to the extent applicable, comply with the protections for human subjects involved in research, development, and related activities supported by federal assistance of:
 - (1) The National Research Act, as amended, 42 U.S.C. § 289 *et seq.*, and
 - (2) U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11.
- e. It will, to the extent applicable, comply with the labor standards and protections for federally assisted Awards of:
 - (1) The Davis-Bacon Act, as amended, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147,
 - (2) Sections 1 and 2 of the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. § 874, and 40 U.S.C. § 3145, respectively, and
 - (3) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3701 *et seq.*
- f. It will comply with any applicable environmental standards prescribed to implement federal laws and executive orders, including, but not limited to:
 - (l) Complying with the institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 – 4335 and following Executive Order No. 11514, as amended, 42 U.S.C. § 4321 note.
 - (2) Following the notification of violating facilities provisions of Executive Order No. 11738, 42 U.S.C. § 7606 note.
 - (3) Following the protection of wetlands provisions of Executive Order No. 11990, 42 U.S.C. § 4321 note.
 - (4) Following the evaluation of flood hazards in the floodplains provisions of Executive Order No. 11988, May 24, 1977, 42 U.S.C. § 4321 note, and Executive Order No. 13690 "Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input, January 30, 2015.
 - (5) Complying with the assurance of consistency with the approved state management program developed pursuant to the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. §§ 1451 – 1465.
 - (6) Complying with the Conformity of Federal Actions to State (Clean Air) Implementation Plans requirements under section 176(c) of the Clean Air Act of 1970, as amended, 42 U.S.C. §§ 7401 – 7671q.
 - (7) Complying with protections for underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. § 300f – 300j-6.
 - (8) Complying with the protections for endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 – 1544.
 - (9) Complying with the environmental protections for federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, state, or local significance or any land from a historic site of national, state, or local significance to be used in a

transportation Award, as required by 49 U.S.C. § 303 (also known as “Section 4f”).

(10) Complying with the protections for national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. §§ 1271 – 1287.

(11) Complying with and facilitating compliance with:

(a) Section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. § 300108,

(b) The Archaeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501 *et seq.*, and

(c) Executive Order No. 11593 (identification and protection of historic properties), 54 U.S.C. § 300101.

g. To the extent applicable, it will comply with the following federal requirements for the care, handling, and treatment of warm-blooded animals held or used for research, teaching, or other activities supported with federal assistance:

(1) The Animal Welfare Act, as amended, 7 U.S.C. § 2131 *et seq.*, and

(2) U.S. Department of Agriculture regulations, “Animal Welfare,” 9 CFR subchapter A, parts 1, 2, 3, and 4.

h. To the extent applicable, it will obtain a certificate of compliance with the seismic design and construction requirements of U.S. DOT regulations, “Seismic Safety,” 49 CFR part 41, specifically 49 CFR § 41.117(d), before accepting delivery of any FTA assisted buildings.

i. It will comply with and assure that each of its Sub recipients located in special flood hazard areas will comply with section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. § 4012a(a), by:

(1) Participating in the federal flood insurance program, and

(2) Purchasing flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

j. It will comply with:

(1) The Hatch Act, 5 U.S.C. §§ 1501 – 1508, 7324 – 7326, which limits the political activities of state and local agencies and their officers and employees whose primary employment activities are financed in whole or part with federal assistance, including a federal loan, grant agreement, or cooperative agreement, and

(2) 49 U.S.C. § 5323(l)(2) and 23 U.S.C. § 142(g), which provide an exception from Hatch Act restrictions for a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving federal assistance appropriated or made available under 49 U.S.C. chapter 53 and 23 U.S.C. § 142(a)(2) to whom the Hatch Act does not otherwise apply.

k. It will perform the financial and compliance audits as required by the:

(1) Single Audit Act Amendments of 1996, 31 U.S.C. § 7501 *et seq.*,

(2) U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR part 1201, which incorporates by reference U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR part 200, and

(3) Most recent applicable U.S. OMB Compliance Supplement, 2 CFR part 200, appendix XI (previously known as the U.S. OMB Circular A-133 Compliance Supplement).

l. It will comply with all other federal laws, regulations, and requirements that apply.

m. It will follow federal guidance governing it and its Award, except as FTA has expressly approved otherwise in writing.

CATEGORY 02. LOBBYING.

Before FTA may provide federal assistance for a grant or cooperative agreement exceeding \$100,000 or a loan, line of credit, loan guarantee, or loan insurance exceeding \$150,000, you must select the Lobbying Certifications in Category 02, unless your Applicant is an Indian Tribe, Indian organization, or an Indian tribal organization exempt from the requirements of 31 U.S.C. § 1352, and/or except as FTA determines otherwise in writing.

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

On behalf of your Applicant, you certify that:

1. As required by 31 U.S.C. § 1352 and U.S. DOT regulations, “New Restrictions on Lobbying,” specifically 49 CFR § 20.110:

a. The lobbying restrictions of this Certification apply to its requests:

- (1) For \$100,000 or more in federal assistance for a grant or cooperative agreement, and
 - (2) For \$150,000 or more in federal assistance for a loan, line of credit, loan guarantee, or loan insurance, and
- b. Your Certification on your Applicant's behalf applies to the lobbying activities of:
- (1) The Applicant,
 - (2) Its Principals, and
 - (3) Its Subrecipients at the first tier.
2. To the best of your knowledge and belief:
- a. No federal appropriated funds have been or will be paid by your Applicant or on its behalf to any person to influence or attempt to influence:
 - (1) An officer or employee of any federal agency regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance, or
 - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance.
 - b. Your Applicant will submit a complete OMB Standard Form LLL (Rev. 7-97), "Disclosure of Lobbying Activities," consistent with the instructions on that form, if any funds other than federal appropriated funds have been or will be paid to any person to influence or attempt to influence:
 - (1) An officer or employee of any federal agency regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance, or
 - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance.
 - c. Your Applicant will include the language of this Certification in its Award documents under a federal grant, cooperative agreement, loan, line of credit, or loan insurance including, but not limited to:
 - (1) Each third party contract,
 - (2) Each third party subcontract,
 - (3) Each sub agreement, and
 - (4) Each third party agreement.
3. Your Applicant understands that:
- a. This Certification is a material representation of fact that the Federal Government relies on, and
 - b. It must submit this Certification before the Federal Government may award federal assistance for a transaction covered by 31 U.S.C. § 1352, including a:
 - (1) Federal grant or cooperative agreement, or
 - (2) Federal loan, line of credit, loan guarantee, or loan insurance.
4. Your Applicant understands that any person who does not file a required Certification will incur a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CATEGORY 03. PRIVATE SECTOR PROTECTIONS.

Before FTA may provide federal assistance for an Award that involves the acquisition of public transportation property or the operation of public transportation facilities or equipment, you must select the Private Property Protections Assurances in Category 03.A and enter into the Agreements in Category 03.B and Category 03.C on behalf of your Applicant, except as FTA determines otherwise in writing. Any provision of the Assurances and Agreements in Category 03 that does not apply will not be enforced.

03.A. Private Property Protections.

If your Applicant is a state, local government, or Indian tribal government and seeks federal assistance from FTA to acquire the property of a private transit operator or operate public transportation in competition with or in addition to a public transportation operator, the Private Property Protections Assurances in Category 03.A apply to your Applicant, except as FTA determines otherwise in writing. To facilitate FTA's ability to make the findings required by 49 U.S.C. § 5323(a)(1), on behalf of your Applicant, you assure that:

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

03.B. Charter Service Agreement.

If your Applicant seeks federal assistance from FTA to acquire or operate transit facilities or equipment, the Charter Service Agreement in Category 04.B applies to your Applicant, except as FTA determines otherwise in writing. To comply with 49 U.S.C. § 5323(d) and (g) and FTA regulations, "Charter Service, 49 CFR part 604, specifically 49 CFR § 604.4, on behalf of your Applicant, you are entering into the following Charter Service Agreement:

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

(b) Otherwise violating its Charter Service Agreement selected in its latest annual Certifications and Assurances.

(2) These corrective measures and remedies may include:

(a) Barring your Applicant or any Third Party Participant operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA,

(b) Withholding an amount of federal assistance as provided by Appendix D to FTA's Charter Service regulations, or

(c) Any other appropriate remedy that may apply.

2. In addition to the exceptions to the restrictions in FTA's Charter Service regulations, FTA has established the following additional exceptions to those restrictions:

a. FTA's Charter Service restrictions do not apply to your Applicant if it seeks federal assistance appropriated or made available under 49 U.S.C. §§ 5307 or 5311 to be used for Job Access and Reverse Commute (JARC) activities that would have been eligible for assistance under former 49 U.S.C. § 5316 in effect in FY 2012 or a previous fiscal year, provided that it uses that federal assistance from FTA for those program purposes only.

b. FTA's Charter Service restrictions do not apply to your Applicant if it seeks federal assistance appropriated or made available under 49 U.S.C. § 5310 to be used for New Freedom activities that would have been eligible for assistance under former 49 U.S.C. § 5317 in effect in FY 2012 or a previous fiscal year, provided it uses that federal assistance from FTA for those program purposes only.

c. An Applicant for assistance under 49 U.S.C. chapter 53 will not be determined to have violated the FTA Charter Service regulations if that Recipient provides a private intercity or charter transportation operator reasonable access to that Recipient's federally assisted public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes, as provided in 49 U.S.C. § 5323(r).

03.C. School Bus Agreement.

If your Applicant seeks federal assistance from FTA to acquire or operate transit facilities or equipment, the School Bus Agreement in Category 03.C applies to your Applicant, except as FTA determines otherwise in writing.

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

1. FTA's "School Bus Operations" regulations at 49 CFR part 605 restricts school bus operations using facilities and equipment acquired or improved with federal assistance derived from:

a. Federal transit laws, 49 U.S.C. chapter 53,

b. 23 U.S.C. §§ 133 or 142, or

c. Any other Act that provides federal public transportation assistance, unless otherwise accepted.

2. FTA's school bus operations restrictions extend to:

a. Your Applicant, when it receives federal assistance appropriated or made available for:

(1) Federal transit laws, 49 U.S.C. chapter 53,

(2) 23 U.S.C. §§ 133 or 142, or

(3) Any other Act that provides federal public transportation assistance, unless otherwise accepted.

b. Any Third Party Participant that receives federal assistance derived from:

(1) Federal transit laws, 49 U.S.C. chapter 53,

(2) 23 U.S.C. §§ 133 or 142, or

(3) Any other Act that provides federal public transportation assistance, unless otherwise accepted.

3. A Third Party Participant includes any:

a. Sub recipient at any tier,

b. Lessee,

c. Third Party Contractor or Subcontractor at any tier, and

d. Any other Third Party Participant in the Award.

4. You and your Applicant agree, and will obtain the agreement of any Third Party Participant, that it will not engage in school bus operations in competition with private operators of school buses, except as permitted under:

a. Federal transit laws, specifically 49 U.S.C. § 5323(f) and (g),

b. FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. § 5323(f) and (g),

- c. Any other federal School Bus regulations, or
- d. Federal guidance, except as FTA determines otherwise in writing.
- 5. You and your Applicant agree that the latest School Bus Agreement selected on its behalf in FTA's latest annual Certifications and Assurances is incorporated by reference and made part of the Underlying Agreement accompanying its Award of federal assistance.
- 6. You and your Applicant agree that after it is a Recipient, if it or any Third Party Participant has violated this School Bus Agreement, FTA may:
 - a. Bar your Applicant or Third Party Participant from receiving further federal assistance for public transportation, or
 - b. Require the Applicant or Third Party Participant to take such remedial measures as FTA considers appropriate.

CATEGORY 04. ROLLING STOCK REVIEWS AND BUS TESTING.

Before FTA may provide federal assistance for an Award to acquire rolling stock for use in revenue service or to acquire a new bus model, you must select the Rolling Stock Reviews and Bus Testing Certifications in Category 04, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 04 that does not apply will not be enforced.

04.A. Rolling Stock Reviews.

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

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

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

04.B. Bus Testing.

If your Applicant seeks federal assistance from FTA to acquire a new bus model, the Bus Testing Certifications in Category 04.B apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that:

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

CATEGORY 05. DEMAND RESPONSIVE SERVICE.

Before FTA may provide federal assistance to a public entity that operates demand responsive service for an Award to acquire a non-rail vehicle that is not accessible, you must select the Demand Responsive Service Certifications in Category 05, except as FTA determines otherwise in writing.

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

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

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

CATEGORY 06. INTELLIGENT TRANSPORTATION SYSTEMS.

Before FTA may provide federal assistance for an Award in support of an Intelligent Transportation System (ITS), you must select the Intelligent Transportation Systems Assurances in Category 06, except as FTA determines otherwise in writing.

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

On behalf of your Applicant, you and your Applicant:

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

CATEGORY 07. INTEREST AND FINANCING COSTS AND ACQUISITION OF CAPITAL ASSETS BY LEASE.

Before FTA may award federal assistance appropriated or made available under 49 U.S.C. chapter 53 to support the interest, financing, or leasing costs of any Award financed under the Urbanized Area Formula Grants Program, Fixed Guideway Capital Investment Grants Program, any program to which the requirements of 49 U.S.C. § 5307 apply, or any other program as FTA may specify, you must select the Certifications in Category 07, except as FTA may determine otherwise in writing.

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

07.A. Interest and Financing Costs.

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

On behalf of your Applicant, you certify that:

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

07.B. Acquisition of Capital Assets by Lease.

If your Applicant seeks federal assistance from FTA to acquire capital assets (other than rolling stock or related equipment) through a lease, the Acquisition of Capital Assets by Lease Certifications and Assurances in Category 07.B apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify and assure that, as required by FTA regulations, "Capital Leases,"

49 CFR part 639, to the extent consistent with the FAST Act, if your Applicant acquires any capital asset (other than rolling stock or related equipment) through a lease financed with federal assistance appropriated or made available under 49 U.S.C. chapter 53, it will not enter into a capital lease for which FTA can provide only incremental federal assistance unless it has adequate financial resources to meet its future lease obligations if federal assistance is not available.

CATEGORY 08. TRANSIT ASSET MANAGEMENT PLAN, PUBLIC TRANSPORTATION AGENCY SAFETY PLAN, AND STATE SAFETY OVERSIGHT REQUIREMENTS.

Before FTA may provide federal assistance appropriated or made available under 49 U.S.C. chapter 53 to support an Award, you must select the Certifications in Category 08, except as FTA determines otherwise in writing.

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

08.A. Transit Asset Management Plan.

If your Applicant applies for funding appropriated or made available for 49 U.S.C. chapter 53, the Transit Asset Management Certifications in Category 08.A apply to your Applicant, except as FTA determines otherwise in writing.

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

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

08.B. Public Transportation Safety Program.

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

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

08.C. State Safety Oversight Requirements.

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

1. States With a Fully Compliant Program. The Recipient agrees that FTA regulations, "State Safety Oversight," 49 C.F.R. part 674, will apply when its State Safety Oversight program is fully compliant with FTA's requirements, but
2. States Without a Fully Compliant Program. The Recipient agrees that FTA regulations, "Rail Fixed Guideway Systems; State Safety Oversight," 49 C.F.R. part 659, will continue to apply to those states that have not yet implemented a fully compliant Public Transportation Safety Program.
3. For those Applicants that do not have a certified State Safety Oversight program, the Applicant will make progress towards meeting the April 15, 2019, State Safety Oversight Program certification deadline.

CATEGORY 9. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

If your Applicant must comply with the alcohol and controlled substance testing requirements of 49 U.S.C. § 5331 and its implementing regulations, before FTA may provide federal assistance for an Award, you must select the Certifications in Category 9, except as FTA may determine otherwise in writing.

Any provision of the Certifications in Category 9 that does not apply will not be enforced.

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

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

CATEGORY 10. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS PROGRAM (NEW STARTS, SMALL STARTS, AND CORE CAPACITY IMPROVEMENT).

Before FTA may provide federal assistance for an Award financed under the New Starts, Small Starts, or Core Capacity Improvement Program authorized under 49 U.S.C. § 5309, you must select the Certifications in Category 10, except as FTA may determine otherwise in writing.

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

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

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

CATEGORY 11. STATE OF GOOD REPAIR PROGRAM.

Before FTA may provide federal assistance for an Award financed under the State of Good Repair Program authorized under 49 U.S.C. § 5337, you must select the Certifications in Category 11, except as FTA determines otherwise in writing.

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

On behalf of your Applicant, you certify that:

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

CATEGORY 12. GRANTS FOR BUSES AND BUS FACILITIES AND LOW OR NO EMISSION VEHICLE DEPLOYMENT GRANT PROGRAMS

Before FTA may provide federal assistance for an Award under the Buses and Bus Facilities Program authorized under 49 U.S.C. § 5339, as amended by the FAST Act, which authorizes grants for formula and competitive Bus and Bus Facilities Grants and Low or No Emission buses or an award under the Low or No Emission Vehicle Development Program authorized under former 49 U.S.C. § 5312(d)(5), you must select the Certifications in Category 12, except as FTA determines otherwise in writing.

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

12.A. Grants for Buses and Bus Facilities Program

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

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

- (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
- (2) The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
- i. It has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation service.
- j. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.
- 2. Except as FTA determines otherwise in writing, if your Applicant is in a rural area, you certify, on behalf of your Applicant, that:
 - a. It has or will have and require each Sub recipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have and require each Sub recipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
 - c. It will maintain and require each Sub recipient to maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
 - d. Its state program has provided for a fair distribution of federal assistance appropriated or made available under 49 U.S.C. § 5311(b) within the state to eligible entities, including Indian reservations.
 - e. Its program provides or will provide the maximum feasible coordination of federal assistance for public transportation service with transportation service financed by other federal sources.
 - f. Its Awards and Sub awards in its Formula Grants for Rural Areas Program are included in:
 - (1) The statewide transportation improvement program, and
 - (2) To the extent applicable, a metropolitan transportation improvement program.
 - g. With respect to the non-federal share:
 - (1) It has or will have and, as necessary, will require each Sub recipient to have the amount of funds required for the non-federal share, as required by 49 U.S.C. § 5311(g),
 - (2) It will provide and, as necessary, will require each Sub recipient to provide the non-federal share from sources approved by FTA, and
 - (3) It will provide and, as necessary, will require each Sub recipient to provide the non-federal share when needed.
 - h. It may transfer a facility or equipment acquired or improved under its Award to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
 - (1) The Recipient possessing the facility or equipment consents to the transfer, and
 - (2) The facility or equipment will continue to be used as required under 49 U.S.C. § 5311.

12.B. Low or No Emission Vehicle Deployment.

If your Applicant seeks federal assistance from FTA for an Award financed under the Low or No Emission Vehicle Development Program authorized under former 49 U.S.C. § 5312(d)(5), the Certifications and Assurances in Category 12.B apply to your Applicant, except as FTA determines otherwise in writing.

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

- 1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
- 2. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
- 3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with the Recipient's transit management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
- 4. When using or involving a facility or equipment acquired or improved with federal assistance under former 49 U.S.C. § 5312(d)(5) during non-peak hours for transportation, it will charge a fare not exceeding fifty (50) percent of the peak hour to the following individuals:
 - a. Any senior,

- b. Any individual who, because of illness, injury, age, a congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or who has semi-ambulatory capability) and is unable to use a public transportation service or a public transportation facility effectively without special facilities, special planning, or special design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
5. When carrying out a procurement under this Program, it will comply with:
- a. The applicable general provisions of 49 U.S.C. § 5323, and
 - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. It has complied with or will comply with 49 U.S.C. § 5307(b) because:
- a. It has informed or will inform the public of the amounts of its federal assistance available under this Program,
 - b. It has developed or will develop, in consultation with interested parties including private transportation providers, its proposed Program of Projects for activities to be financed,
 - c. It has published or will publish its proposed Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Projects and its performance as an Applicant,
 - d. It has provided or will provide an opportunity for a public hearing to obtain the views of individuals on its proposed Program of Projects,
 - e. It has assured or will assure that its proposed Program of Projects provides for coordination of public transportation services assisted under 49 U.S.C. § 5336, as amended by the FAST Act, with federally assisted transportation services supported by other federal sources,
 - f. It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and
 - g. It has made or will make the final list of Projects for which an Award is sought available to the public.
7. With respect to the non-federal share:
- a. It has or will have the amount of funds required for the non-federal share,
 - b. It will provide the non-federal share from sources approved by FTA, and
 - c. It will provide the non-federal share when needed.
8. It will comply with:
- a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
9. It has a locally developed process to solicit and consider public comment before:
- a. Raising a fare, or
 - b. Implementing a major reduction of public transportation service.
10. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

CATEGORY 13. URBANIZED AREA FORMULA GRANTS PROGRAMS AND PASSENGER FERRY GRANT PROGRAM.

Before FTA may provide federal assistance for an Award financed under the Urbanized Area Formula Grants Program authorized under 49 U.S.C. § 5307, as amended by the FAST Act, which authorizes federal assistance for Job Access and Reverse Commute (JARC) activities, and the Passenger Ferry Grant Program authorized under 49 U.S.C. § 5307(h), you must select the Certifications in Category 13, except as FTA determines otherwise in writing.

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

13A. Urbanized Area Formula Grants Program under the FAST Act.

If your Applicant seeks federal assistance from FTA for an Award financed under the Urbanized Area Formula Grants Program authorized under 49 U.S.C. § 5307, as amended by the FAST Act, the Certifications in Category 13.A apply to your Applicant, except as FTA determines otherwise in writing. The following Certifications for the Urbanized Area Formula Grants Program under 49 U.S.C. § 5307, as

amended by the FAST Act, are required by 49 U.S.C. § 5307(c)(1). Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625,
4. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5307 during non-peak hours for transportation, it will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
5. When carrying out a procurement under 49 U.S.C. § 5307, it will comply with:
 - a. The applicable general provisions of 49 U.S.C. § 5323, and
 - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. It has complied with or will comply with 49 U.S.C. § 5307(b) because:
 - a. It has made or will make available to the public information on the amounts of federal assistance available to it under 49 U.S.C. § 5307,
 - b. It has developed or will develop, in consultation with interested parties including private transportation providers, its proposed Program of Projects for activities for which federal assistance is sought,
 - c. It has published or will publish its proposed Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on its proposed Program of Projects and its performance as an Applicant or Recipient,
 - d. It has provided or will provide an opportunity for a public hearing to obtain the views of individuals on its proposed Program of Projects,
 - e. It has ensured or will ensure that its proposed Program of Projects provides for coordination of transportation services financed by FTA under 49 U.S.C. § 5336, as amended by the FAST Act, with transportation services supported by other Federal Government sources,
 - f. It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
 - g. It has made or will make its final Program of Projects available to the public.
7. As required by 49 U.S.C. § 5307(d):
 - a. It has or will have the amount of funds required for the non-federal share,
 - b. It will provide the non-federal share from sources approved by FTA, and
 - c. It will provide the non-federal share when needed.
8. As required by 49 U.S.C. § 5307(c)(1)(H), it will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
9. As required by 49 U.S.C. § 5307(c)(1)(I), it has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation.
10. Each fiscal year:
 - a. It will assure that at least one (1) percent of the amount of federal assistance under 49 U.S.C. § 5307 apportioned to its urbanized area must be expended for Public Transportation Security activities as described in 49 U.S.C. § 5307(c)(1)(J)(i) including:
 - (1) Increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages),

- (2) Increased camera surveillance of an area in or adjacent to that system,
- (3) Emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and
- (4) Any other activity intended to increase the security and safety of an existing or planned public transportation system, or

b. The Designated Recipients in its urbanized area certify that such expenditures for Public Transportation Security activities are not necessary.

11. If it serves an urbanized area with a population of at least 200,000 individuals, as determined by the Bureau of the Census:

a. It will provide a report by the end of the fourth quarter of the preceding federal fiscal year that lists projects carried out in the preceding fiscal year under this section for associated transit improvements as defined in 49 U.S.C. § 5302, and

b. The report of its Associated Transit Improvements or related activities is or will be incorporated by reference and made part of its Certifications and Assurances.

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

13.B. Passenger Ferry Grant Program.

If your Applicant seeks federal assistance from FTA for an Award financed under the Passenger Ferry Grant Program authorized under 49 U.S.C. § 5307(h), as amended by the FAST Act, the Certifications in Category 13.B apply to your Applicant, except as FTA determines otherwise in writing.

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

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

- a. Raising a fare, or
 - b. Implementing a major reduction of public transportation service.
9. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

CATEGORY 14. ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAMS.

Before FTA may provide federal assistance for an Award financed under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program authorized under 49 U.S.C. § 5310, as amended by the FAST Act, or the Pilot Program for Innovated Access and Mobility under Section 3006(b) of the FAST Act, you must select the Certifications in Category 14, except as FTA determines otherwise in writing.

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

1. The following Certifications for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program are required by 49 U.S.C. § 5310. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

a. Each Sub recipient is:

- (1) A private nonprofit organization, or
- (2) A state or local governmental authority that:
 - (a) Is approved by a state to coordinate services for seniors and individuals with disabilities, or
 - (b) Certifies that there are no private nonprofit organizations readily available in the area to provide the services authorized for support under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program.

b. Your Applicant will comply with the following selection and planning requirements:

- (1) The Projects it has selected or will select for an Award or Sub award of federal assistance appropriated or made available under 49 U.S.C. § 5310 are included in a public transit-human services transportation plan that has been:
 - (a) Locally developed, and
 - (b) Coordinated.
- (2) The public transit-human services transportation plan was developed and approved through a process that included participation by:
 - (a) Seniors,
 - (b) Individuals with disabilities,
 - (c) Representatives of public, private, and nonprofit transportation providers,
 - (d) Representatives of public, private, and nonprofit human services providers, and
 - (e) Other members of the public.
- (3) Within its Award, the Projects selected to receive federal assistance will assist in providing transportation services for seniors and individuals with disabilities are included in its Program of Projects submitted to FTA annually.
- (4) To the maximum extent feasible, the services financed by 49 U.S.C. § 5310 will be coordinated with transportation services financed by other federal departments and agencies, including any transportation activities carried out by a recipient of federal assistance from the Department of Health and Human Services.

c. As required by 49 U.S.C. § 5310(e)(2)(B), it certifies that if it allocates federal assistance received under 49 U.S.C. § 5310 to any Sub recipient, it will have allocated that federal assistance on a fair and equitable basis.

d. It will not transfer a facility or equipment acquired or improved with federal assistance appropriated or made available for a grant under 49 U.S.C. § 5310 to any other recipient eligible to receive assistance under 49 U.S.C. chapter 53, unless:

- (1) The recipient possessing the facility or equipment consents to the transfer, and
- (2) The facility or equipment will continue to be used as required under 49 U.S.C. § 5310.

e. As required by 49 U.S.C. § 5310(b)(2), it will use at least fifty-five (55) percent of the federal assistance it receives for Capital Projects to meet the special needs of seniors and individuals with disabilities

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

CATEGORY 15. RURAL AREAS AND APPALACHIAN DEVELOPMENT PROGRAMS.

Before FTA may provide federal assistance for an Award financed under the Formula Grants for Rural Areas Program authorized under 49 U.S.C. § 5311(b), as amended by FAST Act, and the Appalachian Development Public Transportation Assistance Program authorized 49 U.S.C. § 5311(c)(2), as amended by FAST, you must select the Certifications in Category 15, except as FTA determines otherwise in writing.

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

15.A. Formula Grants for Rural Areas Program.

If your Applicant seeks federal assistance from FTA for an Award financed under the Formula Grants for Rural Areas Program authorized under 49 U.S.C. § 5311, as amended by FAST Act, the Certifications in Category 15.A apply to your Applicant, except as FTA determines otherwise in writing.

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

1. It has or will have and require each Sub recipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have and require each Sub recipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain and require each Sub recipient to maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.

4. It will and will require each Sub recipient to comply with applicable regulations and guidance that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.
5. Its state program has provided for a fair distribution of federal assistance appropriated or made available under 49 U.S.C. § 5311(b) within the state to eligible entities, including Indian reservations.
6. Its program provides or will provide the maximum feasible coordination of federal assistance for public transportation service authorized by 49 U.S.C. § 5311(b) with transportation service financed by other federal sources.
7. Its Awards and Sub awards in its Formula Grants for Rural Areas Program are included in:
 - a. The statewide transportation improvement program, and
 - b. To the extent applicable, a metropolitan transportation improvement program.
8. With respect to the non-federal share:
 - a. It has or will have and, as necessary, will require each Sub recipient to have the amount of funds required for the non-federal share, as required by former 49 U.S.C. § 5311(g),
 - b. It will provide and, as necessary, will require each Sub recipient to provide the non-federal share from sources approved by FTA, and
 - c. It will provide and, as necessary, will require each Sub recipient to provide the non-federal share when needed.
9. It may transfer a facility or equipment acquired or improved under its Award to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
 - a. The Recipient possessing the facility or equipment consents to the transfer, and
 - b. The facility or equipment will continue to be used as required under 49 U.S.C. § 5311.
10. Each fiscal year:
 - a. It will spend at least fifteen (15) percent of its federal assistance authorized under 49 U.S.C. § 5311 and available that fiscal year for eligible activities to develop and support intercity bus transportation within the state including:
 - (1) Planning and marketing for intercity bus transportation,
 - (2) Capital grants for intercity bus facilities,
 - (3) Joint-use facilities,
 - (4) Operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects, and
 - (5) Coordinating rural connections between small public transportation operations and intercity bus carriers, or
 - b. It will provide to FTA a Certification from the governor of the state that:
 - (1) It has consulted with the affected intercity bus service providers about the intercity bus needs of the state, and
 - (2) The state's intercity bus service needs are being met adequately.

15.B. Appalachian Development Public Transportation Assistance Program.

If your Applicant seeks federal assistance from FTA for an Award financed under the Appalachian Development Public Transportation Assistance Program authorized under 49 U.S.C. § 5311(c)(2), the Certifications in Category 15.B apply to your Applicant, except as FTA determines otherwise in writing. On behalf of your Applicant, you certify and assure that, if it is unable to use its federal assistance made available or appropriated for public transportation operating assistance, in accordance with 49 U.S.C. § 5311(c)(2)(D), it may use the federal assistance for a Highway Project only after:

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

CATEGORY 16. TRIBAL TRANSIT PROGRAMS (PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS PROGRAMS).

Before FTA may provide federal assistance for an Award financed under either the Public Transportation on Indian Reservations Formula or Discretionary Program authorized under 49 U.S.C. § 5311(c)(1), as amended by the FAST Act, (Tribal Transit Programs), you must select the Certifications in Category 16, except as FTA determines otherwise in writing.

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

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

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.4. Its Award will achieve maximum feasible coordination with transportation service financed by other federal sources.
4. With respect to its procurement system:
 - a. It will have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 200, for Awards made on or after December 26, 2014,
 - b. It will have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 CFR part 18, specifically former 49 CFR § 18.36, for Awards made before December 26, 2014, or
 - c. It will inform FTA promptly if its procurement system does not comply with either of those U.S. DOT regulations.
5. It will comply with the Certifications, Assurances, and Agreements in:
 - a. Category 03.B and 03.C (Charter Service Agreement and School Bus Agreement),
 - b. Category 04.A and 04. B (Rolling Stock Reviews and Bus Testing),
 - c. Category 05 (Demand Responsive Service),
 - d. Category 06 (Intelligent Transportation Systems), and
 - e. Category 08. A and 08. B (Transit Asset Management Plan and Public Transportation Safety Program),

and

f. Category 09 (Alcohol and Controlled Substances Testing)

CATEGORY 17. STATE SAFETY OVERSIGHT GRANT PROGRAM.

Before FTA may provide federal assistance for an Award financed under the State Safety Oversight Grant Program authorized under 49 U.S.C. § 5329(e)(6), you must select the Certifications in Category 17, except as FTA determines otherwise in writing.

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

On behalf of your Applicant, you certify that:

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

CATEGORY 18. PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.

Before FTA may provide federal assistance for an Award financed under the Public Transportation Emergency Relief Program authorized under 49 U.S.C. § 5324, you must select the Certifications in Category 19, except as FTA determines otherwise in writing.

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

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

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

CATEGORY 19. EXPEDITED PROJECT DELIVERY PILOT PROGRAM.

Before FTA may provide federal assistance for an Award financed under the Expedited Project Delivery Pilot Program authorized under section 3005(b) of the FAST Act, you must select the Certifications in Category 20, except as FTA determines otherwise in writing.

To the extent that any Certification in Category 19 does not apply, it will not be enforced.

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

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

CATEGORY 20. INFRASTRUCTURE FINANCE PROGRAMS.

Before FTA may provide credit assistance for an Award that also is or will be financed under the Transportation Infrastructure Finance and Innovation Act (TIFIA) Program authorized under 23 U.S.C. §§ 601 – 609, or the State Infrastructure Banks (SIB) Program authorized under 23 U.S.C. § 610, you must select the Certifications in Category 20.

If the Applicant does not receive credit assistance under the TIFIA or SIB programs, the Certifications and Assurances in Category 20 will not be enforced.

20.A. Transportation Infrastructure Finance and Innovation Act (TIFIA) Program.

If your Applicant seeks federal assistance from FTA for an Award that also is or will be financed under the TIFIA Program authorized under 23 U.S.C. §§ 601 – 609 the Certifications and Assurances in Category 20.A apply to your Applicant. In administering this Program, the FAST Act cross-cutting requirements supersede inconsistent former requirements.

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

1. To comply with 49 U.S.C. §5307, specifically 49 U.S.C. § 5307(c)(1), on your Applicant's behalf, you certify that:
 - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
 - c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the recipient's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
 - d. For transportation during non-peak hours and using or involving a facility or equipment of an Award financed using 49 U.S.C. § 5307 funds, it will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
 - (1) Any senior,
 - (2) Any individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. § 401 *et seq.*), and
 - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*).
 - e. When carrying out a TIFIA-financed procurement, the Applicant will comply with:
 - (1) The applicable provisions of 49 U.S.C. § 5323, and
 - (2) The applicable provisions of 49 U.S.C. § 5325.
 - f. It has complied with or will comply with 49 U.S.C. § 5307(b).

- g. (1) It has or will have no more than 80 percent of the Total Award Budget as the sum of all federal grants and any TIFIA-financed awards,
- (2) It will provide the non-federal share from sources approved by FTA, and
- (3) It will provide the non-federal share when needed.
- h. It will comply with:
 - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - (2) The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
- i. It has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation.
- j. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.
- 2. To comply with the interest and financing costs restrictions of 49 U.S.C. chapter 53, it agrees that it will not seek reimbursement for interest or any other financing costs incurred in connection with its Award that must be in compliance with those requirements unless:
 - a. It is eligible to receive federal assistance for those expenses, and
 - b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.
- 3. It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*).
- 4. Pursuant to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 5321 *et seq.*, the Project will qualify for an environmental categorical exclusion or receive a finding of no significant impact or a record of decision under NEPA before the Applicant undertakes activities for which it expects to receive federal assistance.
- 5. It agrees that it will adopt a transit asset management plan that complies with regulations implementing 49 U.S.C. § 5326(d).

20.B. State Infrastructure Banks (SIB) Program.

If your Applicant is a state and seeks federal assistance from FTA for a project that also is or will be financed under the SIB Program authorized under 23 U.S.C. § 610, the Certifications and Assurances in Category 20.B apply to your state and its Award, except as the Secretary determines in writing. In administering this Program, the FAST Act cross-cutting requirements supersede inconsistent former requirements.

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

- 1. It will comply with the following applicable federal laws establishing the various SIB Programs since 1995:
 - a. 23 U.S.C. § 610,
 - b. Section 1511 of TEA-21, 23 U.S.C. § 181 note, or
 - c. Section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. § 181.
- 2. It will comply with or follow the Grant Agreement between it and FTA that provides federal assistance to the SIB, including the FTA Master Agreement, which is incorporated by reference into the Grant Agreement, except that, unless FTA determines otherwise in writing, a provision of the FTA Master Agreement incorporated by reference into that Grant Agreement will not apply if it conflicts with any provision of:
 - a. 23 U.S.C. § 610, as amended by the FAST Act,
 - b. 23 U.S.C. § 610 or its predecessor before the FAST Act was signed into law,
 - c. Section 1511 of TEA-21, 23 U.S.C. § 181 note, or section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. § 181 note,
 - d. Federal guidance pertaining to the SIB Program,
 - e. The SIB Cooperative Agreement establishing the state's SIB Program,
 - f. The Grant Agreement with FTA.
- 3. As required by 49 U.S.C. § 5323(o), federal transit laws, specifically 49 U.S.C. § 5307, 49 U.S.C. § 5309, and 49 U.S.C. § 5337, as amended by the FAST Act, apply to any Award under 49 U.S.C. chapter 53 that receives SIB support or financing under title 23, United States Code.
- 4. As required by 49 U.S.C. § 5323(o) and 49 U.S.C. § 5307(c)(1):

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

CATEGORY 21. CONSTRUCTION HIRING PREFERENCES.

Before FTA may provide federal assistance for a third party contract for construction hiring financed under title 49 U.S.C. or title 23 U.S.C. using a geographic, economic, or any other hiring preference not otherwise authorized by federal law or regulation, you must select the Certifications in Category 21 on behalf of your Applicant, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 21 that does not apply will not be enforced.

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

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

**LISTS OF STATUTES, REGULATIONS, EXECUTIVE ORDERS,
AND ADMINISTRATIVE REQUIREMENTS APPLICABLE TO
SECTION 5311 PROGRAM**

STATUTES

18 U.S.C. 1001

which provides criminal sanctions for those who knowingly and willfully provide false information to the Federal Government.

Section 5323(b) of the FT Act, 49 U.S.C. 5301 *et. seq.*

which requires, among other things, the recipient to provide a certification in the case of capital projects that it:

- (1) has afforded an adequate opportunity for public hearings pursuant to adequate prior notice, and held such hearings unless no one with a significant economic, social, or environmental interest in the matter, request a hearing;
- (2) has considered the economic and social effects of the project and its impact on the environment; and
- (3) has found that the project is consistent with official plans for the comprehensive development of the urban area.

Section 5323(a)(1) of the FTA Act, 49 U.S.C. 5301 *et. seq.*

which requires, among other things, the recipient to provide to the maximum extent feasible for the participation of private mass transportation companies

Section 5323(d) of the FTA Act, 49 U.S.C. 5301 *et. seq.*

which requires, among other things, the recipient to enter into an agreement with FTA not to provide charter service that will foreclose private operators

Section 5323(f) of the FTA Act, 49 U.S.C. 5301 *et. seq.*

which requires, among other things, the recipient to enter into an agreement with FTA not to provide exclusive school bus operations

Section 5302 of the FTA Act, 49 U.S.C. 5301 *et. seq.*

which provides definitions applicable to the use of grant funds

Section 5333 of the FTA Act, 49 U.S.C. 5301 *et. seq.*

which requires, among other things, the recipient to comply with applicable labor requirements

Section 5311 of the Federal Transit Act, as amended, 49 U.S.C. 5301 *et. seq.*

Section 5332 of the FTA Act, 49 U.S.C. 5301 *et. seq.*

which, among other things, prohibits discrimination on the basis of race, color, creed, national origin, sex or age

Section 5310 of the FTA Act, 49 U.S.C. 5301 *et seq.*

which provides, among other things, for the planning and design of mass transportation facilities to meet the special needs of elderly persons and persons with disabilities.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d)

which, among other things, prohibits discrimination on the basis of race, color or national origin by recipients of Federal financial assistance Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000(e)

which, among other things, prohibits discrimination in employment Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 which, among other things, prohibits discrimination on the basis of handicap by recipients of Federal financial assistance "Hatch Act", 5 U.S.C. 1501, *et seq.* which, among other things, imposes certain restrictions on political activities of recipients of Federal financial assistance.

"Buy America Requirements", Section 165 of the Surface Transportation Assistance Act of 1982, P.L. 97-424 which, among other things, requires that steel, and manufactured products procured under FTA-funded contracts of a certain size be of domestic manufacture or origin (with four exceptions)

Davis-Bacon Act, as amended, 40 U.S.C. 276a, *et seq.*

which requires, among other things, that all mechanics and laborers working on federally assisted construction projects (in excess of \$2,000 contract value) be paid not less often than once a week, at wage rates computed at an amount not less than the prevailing wages for similar work in the same geographic area of the project

Copeland "Anti-Kickback" Act. 40 U.S.C. 874

which, among other things, prohibits payroll deductions from the wages of employees who are covered by the Davis-Bacon Act for any reason except those specifically stated in the Copeland Act

Contract Work and Safety Standards Act, 40 U.S.C. 327-332

which, among other things, establishes the required basis and conditions for hours of work and for overtime pay of laborers and mechanics, and directs the Department of Labor to formulate construction safety and health standards

National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

which, among other things, prohibits Federal assistance that will adversely affect the quality of the environment

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4610, *et seq.* which, among other things, establishes the terms and conditions for compensation to property owners and occupants who are displaced as a result of federally assisted projects

Archaeological and Historic Preservation Act of 1966, 16 U.S.C. 469a-1, *et seq.*

which provides protection for historically valuable property

National Historic Preservation Act of 1966, 16 U.S.C. 470, *et seq.*

which, among other things, provides for the protection of national historic sites

Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. 1251, et seq. which, among other things, sets limits on pollutants discharged in international waterways and requires safeguard against spills from oil storage facilities

Clean Air Act of 1955, as amended 42 U.S.C. 7402, *et seq.*
which, among other things, establishes national standards for vehicle emissions

Energy Policy and Conservation Act, 42 U.S.C. 6321
which, among other things, authorizes development and implementation of State energy conservation plans

National Flood Insurance Act of 1968, 42 U.S.C. 4011, *et seq.*
which, among other things, authorizes a national flood insurance program

Flood Disaster Protections Act of 1973, 42 U.S.C. 4012a, *et seq.*
which, among other things, requires the purchase of flood insurance by recipients of Federal financial assistance who are located in areas having special flood hazards

Single Audit Act 1984, P.L. 98-502
which establishes audit requirements for State and local governments that receive Federal aid

REGULATIONS

49 C.F.R. Part 600, *et seq.*
regulations promulgated by FTA

49 C.F.R. Parts 21, 23, 25, 27, 37 and 38
regulations promulgated by the Department of Transportation governing Title VI of the Civil Rights Act of 1964, Minority Business Enterprise, Relocation and Land Acquisition, Nondiscrimination on the Basis of Handicap, and the Americans with Disabilities Act, respectively.

36 C.F.R. Part 800
regulations promulgated by the Advisory Council on Historic Preservation

46 C.F.R. Part 381
regulations promulgated by the Maritime Administration governing cargo preference requirements

31 C.F.R. Part 205
regulations promulgated by the Department of Treasury governing letter of credit

40 C.F.R. Part 15
regulations promulgated by the Environmental Protection Agency pertaining to administration of Clean Air and Water Pollution requirements of grantees

29 C.F.R. Parts 5 and 215
regulations promulgated by the Department of Labor pertaining to construction labor and transit employee protections

EXECUTIVE ORDERS

E.O. 11246

which establishes requirements in construction activities for contracts over \$10,000

E.O. 11988

which establishes certain specific requirements related to flood protection and control

E.O. 12372

which rescinds OMB Circular A-95 and establishes new procedures for State review of Federally funded projects

ADMINISTRATIVE REQUIREMENTS

Office of Management and Budget (OMB) Circular A-87

which provides cost principles applicable to grants and contracts with State and local governments

Office of Management and Budget (OMB) Circular A-102

which provides uniform requirements for assistance to State and local governments

Office of Management and Budget (OMB) Circular A-128

which applies to audits of State and local governments

Selection and Signature Page(s) follow.

**FTA Section 5333(b) Certification
STATEMENT OF ACCEPTANCE OF THE
SPECIAL SECTION 5333(b) WARRANTY**

All Applicants/Recipients must execute the following statement of acceptance:

The _____ and _____
(Applicant) (Recipient/Contract Provider if not Applicant)

Agree to make use of the Special Section 5333(b) Warranty developed for exclusive application to the Rural and Small Urban Transit Assistance Program – Section 5311 of the Federal Transit Act, as amended.

The Applicant and Recipient/Contract Provider agree to be bound by the terms and conditions of the Special Section 5333(b) Warranty for its pending Section 5311 assistance grant**. This warranty shall become a part of any contract between SCDOT and the applicant.

Signed by Applicant

Date

* * * * *

Signed by Recipient/Contract Provider

Date

(Address)

(Telephone #)

(Fax #)

(E-Mail Address)

**** FTA requires that each sub-recipient post the Special Warranty (Included) where affected employees may see it.**

**SPECIAL SECTION 5333(b) WARRANTY
LIST OF PUBLIC TRANSPORTATION PROVIDERS & LABOR UNIONS**

This form must be completed by all Applicants/Recipients. If there are no other eligible providers in your service area, mark a "N/A" under the Other Eligible Providers section.

Applicant: _____ Union Rep.: _____

Service Area Description: _____

___ Operating Assistance for FY _____

___ Capital Assistance to purchase _____

Recipients/Contract Providers

(if different than Applicant):

Union Representation (Union & Local #):

Other Eligible Providers in

Applicant's Service Area:

Union Representation (Union & Local #):

CATEGORICAL EXCLUSION CLASSIFICATION OF CAPITAL PROJECTS CHECKLIST

The following checklist identifies transit projects that are considered Categorical Exclusions (CEs) by FTA. Please check the category or categories under which your project should be classified. If your project does not fall under any of the standard categories, but you feel it meets the criterion of a CE (the project will have no significant impact on the environment), then provide project information justifying a CES classification.

The _____ capital project is a categorical exclusion because it is for:
(Name of Applicant)

- Planning and technical studies which will not fund the construction of facilities or acquisition of capital equipment.
- Engineering to define the elements of a proposal or alternatives sufficiently so that environmental effects can be assessed.
- Ridesharing activities and transportation corridor fringe parking facilities.
- Program administration and technical assistance activities by the applicant to administer Section 5311 funds.
- Project administration and operating assistance to continue existing service or increase service to meet demand.
- Purchase of vehicles of the same type (same mode) either as replacements or to increase the size of the fleet where such increase can be accommodated by existing facilities or by new facilities which themselves are within a categorical exclusion.
- Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where no additional land is required and there is no substantial increase in the number of users.
- Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant physical impacts off the site where the facility is located.
- Installation of signs, small passenger and bus shelters, and traffic signs where no substantial land acquisition or traffic disruption will occur.
- Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.
- Acquisition of land in which the property will not be modified, the land use will not be changed, and displacements will not occur. For projects other than FTA advance land loans, this categorical exclusion is limited to the acquisition of minor amounts of land. This is undertaken for the purpose of maintaining the current land use and preserving alternatives to be considered in the environmental process. Advance land acquisition shall not limit the evaluation of alternatives, including shifts in alignment for a construction project, which may be required in the National Environmental Policy Act process.
- Emergency repairs under 23 U.S.C. 125 which do not substantially change the design and are commenced during or immediately after the occurrence of a natural disaster or catastrophic failure.

**Applicant's Certification of Use of Project Equipment,
Facilities and Property**

I hereby certify that Project equipment, facilities and property continue to be used in accordance with the terms and conditions of all applicable capital and operating grant agreements, and that no part of the local contribution has been refunded or reduced.

Name of Authorized Official

Signature of Authorized Official

Title of Authorized Official

Name of Applicant

Date

AUTHORIZING RESOLUTION

Resolution No. _____

Resolution authorizing the filing of an application for a grant under Section 5311 of the Federal Transit Act, as amended.

WHEREAS, the U.S. Department of Transportation is authorized to make grants to states through the Federal Transit Administration (FTA) to support capital, operating and feasibility study assistance projects for non-urbanized public transportation systems under Section 5311 of the FTA Act of 1964, as amended;

WHEREAS, The Office of Public Transit, South Carolina Department of Transportation (SCDOT) has been designated by the Governor to make Section 5311 grants for public transportation projects;

WHEREAS, the contract for financial assistance will impose certain obligations upon the applicant, including the provision by it of the local share of project costs;

NOW, THEREFORE, BE IT RESOLVED BY _____ (Applicant) :

1. That _____ (Name and Title of Authorized Official) on behalf of _____ (Applicant) is authorized to make the necessary assurances and certifications and be empowered to enter into an agreement with SCDOT for the provision of rural public transportation services.
2. That _____ (Name and Title of Transit Provider) is authorized to execute and file an application on behalf of _____ (Applicant) with the SCDOT to aid in the financing of transit assistance projects pursuant to Section 5311 of the Federal Transit Act, as amended.
3. That _____ (Name & Title of Transit Provider), is authorized to furnish such additional information as SCDOT may require in connection with the application.
4. That _____ (Name & Title of Transit Provider) is authorized to execute grant contract agreements on behalf of _____ (Applicant).

CERTIFICATE

The undersigned duly qualified and acting _____ (Title of Officer), of the _____ (Applicant) certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the _____ (Applicant) held on _____, 20__.

If Applicant has an official seal, impress here.

Signature of Recording Officer

Title of Recording Officer

Date

DBE Certification

_____ (applicant name) shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of federal aid contracts or in DBE program administration. _____ (applicant name) is aware that failure to carry out these requirements shall constitute a breach of contract and may result in termination of the contract or such remedy as SCDOT deems appropriate. SCDOT will require all _____ (applicant name) employees and agents to adhere to the provisions of 49 CFR Part 26.

_____ (applicant name) in administering its DBE Program, will not directly or through contract, use criteria or methods to defeat or impair the accomplishment of the objectives of the DBE Program with respect to persons of a particular race, color, national origin or sex. In addition, other federal laws state _____ (applicant name) shall not discriminate on the basis of age, religion or veteran status.

Name of Authorized Official

Signature of Authorized Official

Title of Authorized Official

Name of Applicant

Date

Title VI Certification

_____ (applicant name) certifies compliance with Title VI of the Civil Rights Act of 1964. _____ (applicant name) provides the required Title VI Notice to the Public and is displayed to inform customers of their rights under Title VI. At a minimum, _____ (applicant name) posts the notice on the agency's website and in public areas of the agency's office(s), including the reception desk, meeting rooms, etc. _____ (applicant name) also displays Title VI Notices in transit facilities (e.g., headquarters, transit shelters and stations, etc.), and on transit vehicles (e.g., buses, shelters, etc.). _____ (applicant name) certifies that if there are Limited English Proficient (LEP) populations in your service area, then the Notice is provided in English and in any other language(s) spoken by LEP populations.

Public Notice of Rights Under Title VI of the Civil Rights Act of 1964

(Transit System)

(Transit System) operates its programs and services without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, income status, or LEP, in accordance with Title VI of the Civil Rights Act of 1964. Any person who believes he or she has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with **(Transit System.)**

For information on **(Transit System's)** civil rights plan and the procedures to file a complaint contact **(Transit System Representative, Contact telephone # and TTY contact #; email contact,)** or visit our office at **(Transit System Address.)** For more information visit **(Transit System Website.)**

A complainant may file a complaint directly with the Federal Transit Administration by filing a complaint with the

Office of Civil Rights
Attention: Title VI Program Coordinator
East Building, 5th Floor –TCR
1200 New Jersey Avenue, SE
Washington, DC 20590

If information is needed in another language or alternate format contact **(Transit System Representative at Telephone contact # and TTY contact #, email contact)**

Name of Authorized Official

Signature of Authorized Official

Title of Authorized Official

Name of Applicant

Date

Certification of FMCSA Authority

The FMCSA monitors and ensures compliance with motor carrier safety (all carriers) and commercial (for-hire, non-exempt carriers) regulations. Companies may find they are subject to registration requirements for both safety (safety registration) and commercial regulation (operating authority registration). Companies subject to the safety requirements are also required to obtain a USDOT Number.

The FMCSA registration process requires that companies define the type of Motor Carrier, Broker, Intermodal Equipment Provider (IEP), Cargo Tank Facility, Shipper and/or Freight Forwarder business operation they plan to establish. The Agency administers the Federal Motor Carrier Safety Regulations (FMCSR) and Hazardous Materials Regulations (HMR) that govern interstate - and some intrastate - commercial trucking and bus industries.

This determination is based on self-classification of a company's planned business operation using criteria such as cargo, operation, and company type. Online resources designed to help streamline the application process are also briefly reviewed.

In general, companies that do the following are required to have interstate Operating Authority (MC number) in addition to a DOT number:

- Operate as for-hire carriers (for a fee or other compensation)
- Transport passengers in interstate commerce
- Transport federally-regulated commodities or arranging for their transport, in interstate commerce

FMCSA operating authority is often identified as an "MC," "FF," or "MX" number, depending on the type of authority that is granted. Unlike the USDOT Number application process, a company may need to obtain multiple operating authorities to support its planned business operations. Operating Authority dictates the type of operation a company may run and the cargo it may carry.

_____ (applicant name) certifies to acquire and maintain FMCSA Operating Authority registration required by [49 U.S.C. 13902](#), [49 CFR part 365](#), [49 CFR part 368](#), and [49 CFR 392.9a](#). _____ (applicant name) certifies that FMCSA Operating Authority will be current and maintained within the dates of the grant contract with SCDOT and _____ (applicant name).

Name of Authorized Official

Signature of Authorized Official

Title of Authorized Official

Name of Applicant

Date

(DO NOT SUBMIT with Application)

**Other Than Urbanized and Over - the - Road Bus Accessibility Projects
PURSUANT TO SECTION 5333(b) OF TITLE 49 OF THE U.S. CODE, CHAPTER 53
October 1, 2008**

The following language shall be made part of the contract of assistance by reference in the Federal Transit Administration's Master Agreement as signed by the grantee:

The terms and conditions set forth below shall apply for the protection of the transportation-related employees in the transportation service area of the Project. As a precondition of the release of assistance by the Grantee/State Agency to any Recipient under the grant, the Grantee shall bind the Recipient to these obligations by incorporating this arrangement into the contract of assistance between the Grantee and the Recipient(s), by reference. If a Grantee fails to comply with the terms of the Warranty and fails to bind a Recipient as a precondition to the release of funds, the Grantee will be a guarantor of the required protections and the Grantee will be required to act as if it were the Recipient of funds unless and until the Grantee is able to secure the retroactive agreement of the Recipient to be bound by the terms of the Warranty.

These protective arrangements are intended for the benefit of transit employees in the service area of the project, who are considered as third-party beneficiaries to the employee protective arrangements referenced in the grant contract between the U.S. Department of Transportation and the Grantee, and the parties to the contract so signify by executing that contract. Employees, or their representative, may assert claims with respect to the protective arrangements under this provision. This clause creates no independent cause of action against the United States Government.

The term "service area," as used herein, includes the geographic area over which the Project is operated and the area whose population is served by the Project, including adjacent areas affected by the Project. The term "Union," as used herein, shall refer to any labor organization representing employees providing public transportation services in the service area of a Project assisted under the grant. The term "employee," as used herein, shall include individuals who may or may not be represented by a Union. The term "Recipient," as used herein, shall refer to any employer(s) receiving transportation assistance under the grant. The term "Grantee," as used herein, shall refer to the applicant for assistance; a Grantee which receives assistance is also a Recipient.

Where the Department of Labor (the Department) deems it necessary to modify the requirements of this Special Warranty Arrangement so that a particular Grantee or Recipient can continue to satisfy the requirements of the statute, the Department will issue a supplementary certification letter setting forth the alternative provisions to be included in the contract of assistance between the Grantee and FTA, by reference. These terms will be made binding upon the particular Grantee or Recipient, along with these terms and conditions, for each subsequent grant of assistance until withdrawn in writing by the Department.

(1) The Project shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees of the Recipient and of any other surface public transportation provider in the transportation service area of the Project. It shall be an obligation of the

Recipient to assure that any and all transportation services assisted by the Project are contracted for and operated in such a manner that they do not impair the rights and interests of affected employees. The term "Project," as used herein, shall not be limited to the particular facility, service, or operation assisted by Federal funds, but shall include any changes, whether organizational, operational, technological, or otherwise, which are a result of the assistance provided. The phrase "as a result of the Project," shall, when used in this arrangement, include events related to the Project occurring in anticipation of, during, and subsequent to the Project and any program of efficiencies or economies related thereto; provided, however, that volume rises and falls of business, or changes in volume and character of employment brought about solely by causes other than the Project (including any economies or efficiencies unrelated to the Project) are not within the purview of this arrangement.

An employee covered by this arrangement, who is not dismissed, displaced or otherwise worsened in his/her position with regard to employment as a result of the Project, but who is dismissed, displaced or otherwise worsened solely because of the total or partial termination of the Project or exhaustion of Project funding shall not be deemed eligible for a dismissal or displacement allowance within the meaning of paragraphs (6) and (7) of this arrangement.

(2) Where employees of a Recipient are represented for collective bargaining purposes, all Project services provided by that Recipient shall be provided under and in accordance with any collective bargaining agreement applicable to such employees which is then in effect. This Arrangement does not create any collective bargaining relationship where one does not already exist or between any Recipient and the employees of another employer. Where the Recipient has no collective bargaining relationship with the Unions representing employees in the service area, the Recipient will not take any action which impairs or interferes with the rights, privileges, and benefits and/or the preservation or continuation of the collective bargaining rights of such employees.

(3) All rights, privileges, and benefits (including pension rights and benefits) of employees covered by this arrangement (including employees having already retired) under existing collective bargaining agreements or otherwise, or under any revision or renewal thereof, shall be preserved and continued; provided, however, that such rights, privileges and benefits which are not foreclosed from further bargaining under applicable law or contract may be modified by collective bargaining and agreement by the Recipient and the Union involved to substitute other rights, privileges and benefits. Unless otherwise provided, nothing in this arrangement shall be deemed to restrict any rights the Recipient may otherwise have to direct the working forces and manage its business as it deemed best, in accordance with the applicable collective bargaining agreement.

(4) The collective bargaining rights of employees covered by this arrangement, including the right to arbitrate labor disputes and to maintain union security and checkoff arrangements, as provided by applicable laws, policies and/or existing collective bargaining agreements, shall be preserved and continued. Provided, however, that this provision shall not be interpreted so as to require the Recipient to retain any such rights which exist by virtue of a collective bargaining agreement after such agreement is no longer in effect.

The Recipient agrees that it will bargain collectively with the Union or otherwise arrange for the continuation of collective bargaining, and that it will enter into agreements with the Union or

arrange for such agreements to be entered into, relative to all subjects which are or may be proper subjects of collective bargaining. If, at any time, applicable law or contracts permit or grant to employees covered by this arrangement the right to utilize any economic measures, nothing in this arrangement shall be deemed to foreclose the exercise of such right.

(5) (a) The Recipient shall provide to all affected employees sixty (60) days' notice of intended actions which may result in displacements or dismissals or rearrangements of the working forces as a result of the Project. In the case of employees represented by a Union, such notice shall be provided by certified mail through their representatives. The notice shall contain a full and adequate statement of the proposed changes, and an estimate of the number of employees affected by the intended changes, and the number and classifications of any jobs within the jurisdiction and control of the Recipient, including those in the employment of any entity bound by this arrangement pursuant to paragraph (21), available to be filled by such affected employees.

(b) The procedures of this subparagraph shall apply to cases where notices involve employees represented by a Union for collective bargaining purposes. At the request of either the Recipient or the representatives of such employees, negotiations for the purposes of reaching agreement with respect to the application of the terms and conditions of this arrangement shall commence immediately. These negotiations shall include determining the selection of forces from among the mass transportation employees who may be affected as a result of the Project, to establish which such employees shall be offered employment for which they are qualified or can be trained. If no agreement is reached within twenty (20) days from the commencement of negotiations, any party to the dispute may submit the matter to dispute settlement procedures in accordance with paragraph (15) of this arrangement. Unless the parties otherwise mutually agree in writing, no change in operations, services, facilities or equipment within the purview of this paragraph (5) shall occur until after either: 1) an agreement with respect to the application of the terms and conditions of this arrangement to the intended change(s) is reached; 2) the decision of the arbitrator has been rendered pursuant to this subparagraph (b); or 3) an arbitrator selected pursuant to Paragraph (15) of this arrangement determines that the intended change(s) may be instituted prior to the finalization of implementing arrangements.

(c) In the event of a dispute as to whether an intended change within the purview of this paragraph (5) may be instituted at the end of the 60-day notice period and before an implementing agreement is reached or a final arbitration decision is rendered pursuant to subparagraph (b), any involved party may immediately submit that issue to arbitration under paragraph (15) of this arrangement. In any such arbitration, the arbitrator shall rely upon the standards and criteria utilized by the Surface Transportation Board (and its predecessor agency, the Interstate Commerce Commission) to address the "pre consummation" issue in cases involving employee protections pursuant to 49 U.S.C. Section 11326 (or its predecessor, Section 5(2)(f) of the Interstate Commerce Act, as amended). If the Recipient demonstrates, as a threshold matter in any such arbitration, that the intended action is a trackage rights, lease proceeding or similar transaction, and not a merger, acquisition, consolidation, or other similar transaction, the burden shall then shift to the involved labor organization(s) to prove that under the standards and criteria referenced above, the intended action should not be permitted to be instituted prior to the effective date of a negotiated or arbitrated implementing agreement. If the Recipient fails to demonstrate that the intended action is a trackage rights, lease proceeding, or similar transaction, it shall be the burden of the Recipient to prove that under

the standards and criteria referenced above, the intended action should be permitted to be instituted prior to the effective date of a negotiated or arbitrated implementing agreement. For purposes of any such arbitration, the time period within which the parties are to respond to the list of potential arbitrators submitted by the American Arbitration Association Service shall be five (5) days, the notice of hearing may be given orally or by facsimile, the hearing will be held promptly, the award of the arbitrator shall be rendered promptly and, unless otherwise agreed to by the parties, no later than fourteen (14) days from the date of closing the hearings, with five (5) additional days for mailing if post hearing briefs are requested by either party. The intended change shall not be instituted during the pendency of any arbitration proceedings under this subparagraph (c).

(d) If an intended change within the purview of this paragraph (5) is instituted before an implementing agreement is reached or a final arbitration decision is rendered pursuant to subparagraph (b), all employees affected shall be kept financially whole, as if the noticed and implemented action has not taken place, from the time they are affected until the effective date of an implementing agreement or final arbitration decision. This protection shall be in addition to the protective period defined in paragraph (14) of this arrangement, which period shall begin on the effective date of the implementing agreement or final arbitration decision rendered pursuant to subparagraph (b).

An employee selecting, bidding on, or hired to fill any position established as a result of a noticed and implemented action prior to the consummation of an implementing agreement or final arbitration decision shall accumulate no benefits under this arrangement as a result thereof during that period prior to the consummation of an implementing agreement or final arbitration decision pursuant to subparagraph (b).

(6) (a) Whenever an employee, retained in service, recalled to service, or employed by the Recipient pursuant to paragraphs (5), (7)(e), or (18) hereof is placed in a worse position with respect to compensation as a result of the Project, the employee shall be considered a "displaced employee", and shall be paid a monthly "displacement allowance" to be determined in accordance with this paragraph. Said displacement allowance shall be paid each displaced employee during the protective period so long as the employee is unable, in the exercise of his/her seniority rights, to obtain a position producing compensation equal to or exceeding the compensation the employee received in the position from which the employee was displaced, adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for.

(b) The displacement allowance shall be a monthly allowance determined by computing the total compensation received by the employee, including vacation allowances and monthly compensation guarantees, and his/her total time paid for during the last twelve (12) months in which the employee performed compensated service more than fifty per centum of each such months, based upon the employee's normal work schedule, immediately preceding the date of his/her displacement as a result of the Project, and by dividing separately the total compensation and the total time paid for by twelve, thereby producing the average monthly compensation and the average monthly time paid for. Such allowance shall be adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for. If the displaced employee's compensation in his/her current position is less in any month during his/her protective period than the aforesaid average compensation

(adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for), the employee shall be paid the difference, less compensation for any time lost on account of voluntary absences to the extent that the employee is not available for service equivalent to his/her average monthly time, but the employee shall be compensated in addition thereto at the rate of the current position for any time worked in excess of the average monthly time paid for. If a displaced employee fails to exercise his/her seniority rights to secure another position to which the employee is entitled under the then existing collective bargaining agreement, and which carries a wage rate and compensation exceeding that of the position which the employee elects to retain, the employee shall thereafter be treated, for the purposes of this paragraph, as occupying the position the employee elects to decline.

(c) The displacement allowance shall cease prior to the expiration of the protective period in the event of the displaced employee's resignation, death, retirement, or dismissal for cause in accordance with any labor agreement applicable to his/her employment.

(7) (a) Whenever any employee is laid off or otherwise deprived of employment as a result of the Project, in accordance with any collective bargaining agreement applicable to his/her employment, the employee shall be considered a "dismissed employee" and shall be paid a monthly dismissal allowance to be determined in accordance with this paragraph. Said dismissal allowance shall first be paid each dismissed employee on the thirtieth (30th) day following the day on which the employee is "dismissed" and shall continue during the protective period, as follow:

Employee's length of service prior to adverse effect
Period of protection

- 1 day to 6 years equivalent period
- 6 years or more 6 years

The monthly dismissal allowance shall be equivalent to one-twelfth (1/12th) of the total compensation received by the employee in the last twelve (12) months of his/her employment in which the employee performed compensation service more than fifty per centum of each such month based on the employee's normal work schedule to the date on which the employee was first deprived of employment as a result of the Project. Such allowance shall be adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for.

(b) An employee shall be regarded as deprived of employment and entitled to a dismissal allowance when the position the employee holds is abolished as a result of the Project, or when the position the employee holds is not abolished but the employee loses that position as a result of the exercise of seniority rights by an employee whose position is abolished as a result of the Project or as a result of the exercise of seniority rights by other employees brought about as a result of the Project, and the employee is unable to obtain another position, either by the exercise of the employee's seniority rights, or through the Recipient, in accordance with subparagraph (e). In the absence of proper notice followed by an agreement or decision pursuant to paragraph (5) hereof, no employee who has been deprived of employment as a result of the Project shall be required to exercise his/her seniority rights to secure another position in order to qualify for a dismissal allowance hereunder.

(c) Each employee receiving a dismissal allowance shall keep the Recipient informed as to his/her current address and the current name and address of any other person by whom the employee may be regularly employed, or if the employee is self-employed.

(d) The dismissal allowance shall be paid to the regularly assigned incumbent of the position abolished. If the position of an employee is abolished when the employee is absent from service, the employee will be entitled to the dismissal allowance when the employee is available for service. The employee temporarily filling said position at the time it was abolished will be given a dismissal allowance on the basis of that position, until the regular employee is available for service, and thereafter shall revert to the employee's previous status and will be given the protections of the agreement in said position, if any are due him/her.

(e) An employee receiving a dismissal allowance shall be subject to call to return to service by the employee's former employer; notification shall be in accordance with the terms of the then-existing collective bargaining agreement if the employee is represented by a union. Prior to such call to return to work by his/her employer, the employee may be required by the Recipient to accept reasonably comparable employment for which the employee is physically and mentally qualified, or for which the employee can become qualified after a reasonable training or retraining period, provided it does not require a change in residence or infringe upon the employment rights of other employees under then-existing collective bargaining agreements.

(f) When an employee who is receiving a dismissal allowance again commences employment in accordance with subparagraph (e) above, said allowance shall cease while the employee is so reemployed, and the period of time during which the employee is so reemployed shall be deducted from the total period for which the employee is entitled to receive a dismissal allowance. During the time of such reemployment, the employee shall be entitled to the protections of this arrangement to the extent they are applicable.

(g) The dismissal allowance of any employee who is otherwise employed shall be reduced to the extent that the employee's combined monthly earnings from such other employment or self-employment, any benefits received from any unemployment insurance law, and his/her dismissal allowance exceed the amount upon which the employee's dismissal allowance is based. Such employee, or his/her union representative, and the Recipient shall agree upon a procedure by which the Recipient shall be kept currently informed of the earnings of such employee in employment other than with the employee's former employer, including self-employment, and the benefits received.

(h) The dismissal allowance shall cease prior to the expiration of the protective period in the event of the failure of the employee without good cause to return to service in accordance with the applicable labor agreement, or to accept employment as provided under subparagraph (e) above, or in the event of the employee's resignation, death, retirement, or dismissal for cause in accordance with any labor agreement applicable to his/her employment.

(i) A dismissed employee receiving a dismissal allowance shall actively seek and not refuse other reasonably comparable employment offered him/her for which the employee is physically and mentally qualified and does not require a change in the employee's place of residence. Failure of the dismissed employee to comply with this obligation shall be grounds for discontinuance of

the employee's allowance; provided that said dismissal allowance shall not be discontinued until final determination is made either by agreement between the Recipient and the employee or his/her representative, or by final arbitration decision rendered in accordance with paragraph (15) of this arrangement that such employee did not comply with this obligation.

(8) In determining length of service of a displaced or dismissed employee for purposes of this arrangement, such employee shall be given full service credits in accordance with the records and labor agreements applicable to him/her and the employee shall be given additional service credits for each month in which the employee receives a dismissal or displacement allowance as if the employee were continuing to perform services in his/her former position.

(9) No employee shall be entitled to either a displacement or dismissal allowance under paragraphs (6) or (7) hereof because of the abolishment of a position to which, at some future time, the employee could have bid, been transferred, or promoted.

(10) No employee receiving a dismissal or displacement allowance shall be deprived, during the employee's protected period, of any rights, privileges, or benefits attaching to his/her employment, including, without limitation, group life insurance, hospitalization and medical care, free transportation for the employee and the employee's family, sick leave, continued status and participation under any disability or retirement program, and such other employee benefits as Railroad Retirement, Social Security, Workmen's Compensation, and unemployment compensation, as well as any other benefits to which the employee may be entitled under the same conditions and so long as such benefits continue to be accorded to other employees of the bargaining unit, in active service or furloughed as the case may be.

(11) (a) Any employee covered by this arrangement who is retained in the service of his/her employer, or who is later restored to service after being entitled to receive a dismissal allowance, and who is required to change the point of his/her employment in order to retain or secure active employment with the Recipient in accordance with this arrangement, and who is required to move his/her place of residence, shall be reimbursed for all expenses of moving his/her household and other personal effects, for the traveling expenses for the employee and members of the employee's immediate family, including living expenses for the employee and the employee's immediate family, and for his/her own actual wage loss during the time necessary for such transfer and for a reasonable time thereafter, not to exceed five (5) working days. The exact extent of the responsibility of the Recipient under this paragraph, and the ways and means of transportation, shall be agreed upon in advance between the Recipient and the affected employee or the employee's representatives.

(b) If any such employee is laid off within three (3) years after changing his/her point of employment in accordance with paragraph (a) hereof, and elects to move his/her place of residence back to the original point of employment, the Recipient shall assume the expenses, losses and costs of moving to the same extent provided in subparagraph (a) of this paragraph (11) and paragraph (12)(a) hereof.

(c) No claim for reimbursement shall be paid under the provisions of this paragraph unless such claim is presented to the Recipient in writing within ninety (90) days after the date on which the expenses were incurred.

(d) Except as otherwise provided in subparagraph (b), changes in place of residence, subsequent to the initial changes as a result of the Project, which are not a result of the Project but grow out of the normal exercise of seniority rights, shall not be considered within the purview of this paragraph.

(12) (a) The following conditions shall apply to the extent they are applicable in each instance to any employee who is retained in the service of the employer (or who is later restored to service after being entitled to receive a dismissal allowance), who is required to change the point of his/her employment as a result of the Project, and is thereby required to move his/her place of residence. If the employee owns his/her own home in the locality from which the employee is required to move, the employee shall, at the employee's option, be reimbursed by the Recipient for any loss suffered in the sale of the employee's home for less than its fair market value, plus conventional fees and closing costs, such loss to be paid within thirty (30) days of settlement or closing on the sale of the home. In each case, the fair market value of the home in question shall be determined, as of a date sufficiently prior to the date of the Project, so as to be unaffected thereby. The Recipient shall, in each instance, be afforded an opportunity to purchase the home at such fair market value before it is sold by the employee to any other person and to reimburse the seller for his/her conventional fees and closing costs. If the employee is under a contract to purchase his/her home, the Recipient shall protect the employee against loss under such contract, and in addition, shall relieve the employee from any further obligation thereunder. If the employee holds an unexpired lease of a dwelling occupied as the employee's home, the Recipient shall protect the employee from all loss and cost in securing the cancellation of said lease.

(b) No claim for loss shall be paid under the provisions of this paragraph unless such claim is presented to the Recipient in writing within one year after the effective date of the change in residence.

(c) Should a controversy arise in respect to the value of the home, the loss sustained in its sale, the loss under a contract for purchase, loss and cost in securing termination of a lease, or any other question in connection with these matters, it shall be decided through a joint conference between the employee, or his/her union, and the Recipient. In the event they are unable to agree, the dispute or controversy may be referred by the Recipient or the union to a board of competent real estate appraisers selected in the following manner:

(1) to be selected by the representatives of the employee, and one (1) by the Recipient, and these two, if unable to agree within thirty (30) days upon the valuation, shall endeavor by agreement with ten (10) days thereafter to select a third appraiser or to agree to a method by which a third appraiser shall be selected, and failing such agreement, either party may request the State and local Board of Real Estate Commissioners to designate within ten (10) days a third appraiser, whose designation will be binding upon the parties and whose jurisdiction shall be limited to determination of the issues raised in this paragraph only. A decision of a majority of the appraisers shall be required and said decision shall be final, binding, and conclusive. The compensation and expenses of the neutral appraiser including expenses of the appraisal board, shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the compensation of the appraiser selected by such party.

(d) Except as otherwise provided in paragraph (11)(b) hereof, changes in place of residence, subsequent to the initial changes as a result of the Project, which are not a result of the Project but grow out of the normal exercise of seniority rights, shall not be considered within the purview of this paragraph.

(e) "Change in residence" means transfer to a work location which is either (A) outside a radius of twenty (20) miles of the employee's former work location and farther from the employee's residence than was his/her former work location, or (B) is more than thirty (30) normal highway route miles from the employee's residence and also farther from his/her residence than was the employee's former work location.

(13) (a) A dismissed employee entitled to protection under this arrangement may, at the employee's option within twenty-one (21) days of his/her dismissal, resign and (in lieu of all other benefits and protections provided in this arrangement) accept a lump sum payment computed in accordance with section (9) of the Washington Job Protection Agreement of May 1936:

Length of Service Separation Allowance

- 1 year and less than 2 years 3 months' pay
- 2 years and less than 3 years 6 months' pay
- 3 years and less than 5 years 9 months' pay
- 5 years and less than 10 years 12 months' pay
- 10 years and less than 15 years 12 months' pay
- 15 years and over 12 months' pay

In the case of an employee with less than one year's service, five days' pay, computed by multiplying by 5 the normal daily earnings (including regularly scheduled overtime, but excluding other overtime payments) received by the employee in the position last occupied, for each month in which the employee performed service, will be paid as the lump sum.

Length of service shall be computed as provided in Section 7(b) of the Washington Job Protection Agreement, as follows:

For the purposes of this arrangement, the length of service of the employee shall be determined from the date the employee last acquired an employment status with the employing carrier and the employee shall be given credit for one month's service for each month in which the employee performed any service (in any capacity whatsoever) and twelve (12) such months shall be credited as one year's service. The employment status of an employee shall not be interrupted by furlough in instances where the employee has a right to and does return to service when called. In determining length of service of an employee acting as an officer or other official representative of an employee organization, the employee will be given credit for performing service while so engaged on leave of absence from the service of a carrier.

(b) One month's pay shall be computed by multiplying by 30 the normal daily earnings (including regularly scheduled overtime, but excluding other overtime payments) received by the

employee in the position last occupied prior to time of the employee's dismissal as a result of the Project.

(14) Whenever used herein, unless the context requires otherwise, the term "protective period" means that period of time during which a displaced or dismissed employee is to be provided protection hereunder and extends from the date on which an employee is displaced or dismissed to the expiration of six (6) years therefore, provided, however, that the protective period for any particular employee during which the employee is entitled to receive the benefits of these provisions shall not continue for a longer period following the date the employee was displaced or dismissed than the employee's length of service, as shown by the records and labor agreements applicable to his/her employment prior to the date of the employee's displacement or dismissal.

(15) (a) In the event that employee(s) are represented by a Union, any dispute, claim, or grievance arising from or relating to the interpretation, application or enforcement of the provisions of this arrangement, not otherwise governed by paragraph 12(c), the Labor-Management Relations Act, as amended, the Railway Labor Act, as amended, or by impasse resolution provisions in a collective bargaining or protective arrangement involving the Recipient and the Union, which cannot be settled by the parties thereto within thirty (30) days after the dispute or controversy arises, may be referred by any such party to any final and binding disputes settlement procedure acceptable to the parties. In the event they cannot agree upon such procedure, the dispute, claim, or grievance may be submitted at the written request of the Recipient or the Union to final and binding arbitration. Should the parties be unable to agree upon the selection of a neutral arbitrator within ten (10) days, any party may request the American Arbitration Association to furnish, from among arbitrators who are then available to serve, five (5) arbitrators from which a neutral arbitrator shall be selected. The parties shall, within five (5) days after the receipt of such list, determine by lot the order of elimination and thereafter each shall, in that order, alternately eliminate one name until only one name remains. The remaining person on the list shall be the neutral arbitrator. Unless otherwise provided, in the case of arbitration proceedings, under paragraph (5) of this arrangement, the arbitration shall commence within fifteen (15) days after selection or appointment of the neutral arbitrator, and the decision shall be rendered within forty-five (45) days after the hearing of the dispute has been concluded and the record closed. The decision shall be final and binding. All the conditions of the arrangement shall continue to be effective during the arbitration proceedings.

(b) The compensation and expenses of the neutral arbitrator, and any other jointly incurred expenses, shall be borne equally by the Union(s) and Recipient, and all other expenses shall be paid by the party incurring them.

(c) In the event that employee(s) are not represented by a Union, any dispute, claim, or grievance arising from or relating to the interpretation, application or enforcement of the provisions of this arrangement which cannot be settled by the Recipient and the employee(s) within thirty (30) days after the dispute or controversy arises, may be referred by any such party to any final and binding dispute settlement procedure acceptable to the parties, or in the event the parties cannot agree upon such a procedure, the dispute or controversy may be referred to the Secretary of Labor for a final and binding determination.

(d) In the event of any dispute as to whether or not a particular employee was affected by the Project, it shall be the obligation of the employee or the representative of the employee to identify the Project and specify the pertinent facts of the Project relied upon. It shall then be the burden of the Recipient to prove that factors other than the Project affected the employee. The claiming employee shall prevail if it is established that the Project had an effect upon the employee even if other factors may also have affected the employee. (See Hodgson's Affidavit in Civil Action No. 825-71).

(16) The Recipient will be financially responsible for the application of these conditions and will make the necessary arrangements so that any employee covered by this arrangement may file a written claim of its violation, through the Union, or directly if the employee is outside the bargaining unit, with the Recipient within sixty (60) days of the date the employee is terminated or laid off as a result of the Project, or within eighteen (18) months of the date the employee's position with respect to his/her employment is otherwise worsened as a result of the Project. In the latter case, if the events giving rise to the claim have occurred over an extended period, the 18-month limitation shall be measured from the last such event. No benefits shall be payable for any period prior to six (6) months from the date of the filing of any claim. Unless such claims are filed with the Recipient within said time limitations, the Recipient shall thereafter be relieved of all liabilities and obligations related to the claim.

The Recipient will fully honor the claim, making appropriate payments, or will give notice to the claimant or his/her representative of the basis for denying or modifying such claim, giving reasons therefore. If the Recipient fails to honor such claim, the Union or nonbargaining unit employee may invoke the following procedures for further joint investigation of the claim by giving notice in writing. Within ten (10) days from the receipt of such notice, the parties shall exchange such factual material as may be requested of them relevant to the disposition of the claim and shall jointly take such steps as may be necessary or desirable to obtain from any third party such additional factual materials as may be relevant. In the event the Recipient rejects the claim, the claim may be processed to arbitration as hereinabove provided by paragraph (15).

(17) Nothing in this arrangement shall be construed as depriving any employee of any rights or benefits which such employee may have under existing employment or collective bargaining agreements or otherwise; provided that there shall be no duplication of benefits to any employee, and, provided further, that any benefit under this arrangement shall be construed to include the conditions, responsibilities, and obligations accompanying such benefit. This arrangement shall not be deemed a waiver of any rights of any Union or of any represented employee derived from any other agreement or provision of federal, state or local law.

(18) During the employee's protective period, a dismissed employee shall, if the employee so requests, in writing, be granted priority of employment or reemployment to fill any vacant position within the jurisdiction and control of the Recipient reasonably comparable to that which the employee held when dismissed, including those in the employment of any entity bound by this arrangement pursuant to paragraph (21) herein, for which the employee is, or by training or retraining can become, qualified; not, however, in contravention of collective bargaining agreements related thereto. In the event such employee requests such training or retraining to fill such vacant position, the Recipient shall provide for such training or retraining at no cost to the employee. The employee shall be paid the salary or hourly rate provided for in the applicable collective bargaining agreement or otherwise established in personnel policies or

practices for such position, plus any displacement allowance to which the employee may be otherwise entitled. If such dismissed employee who has made such request fails, without good cause, within ten (10) days to accept an offer of a position comparable to that which the employee held when dismissed for which the employee is qualified, or for which the employee has satisfactorily completed such training, the employee shall, effective at the expiration of such ten-day period, forfeit all rights and benefits under this arrangement.

As between employees who request employment pursuant to this paragraph, the following order where applicable shall prevail in hiring such employees:

(a) Employees in the craft or class of the vacancy shall be given priority over employees without seniority in such craft or class;

(b) As between employees having seniority in the craft or class of the vacancy, the senior employees, based upon their service in that craft or class, as shown on the appropriate seniority roster, shall prevail over junior employees;

(c) As between employees not having seniority in the craft or class of the vacancy, the senior employees, based upon their service in the crafts or classes in which they do have seniority as shown on the appropriate seniority rosters, shall prevail over junior employees.

(19) The Recipient will post, in a prominent and accessible place, a notice stating that the Recipient has received federal assistance under the Federal Transit statute and has agreed to comply with the provisions of 49 U.S.C., Section 5333(b). This notice shall also specify the terms and conditions set forth herein for the protection of employees. The Recipient shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the proper application, administration, and enforcement of this arrangement and to the proper determination of any claims arising thereunder.

(20) In the event the Project is approved for assistance under the statute, the foregoing terms and conditions shall be made part of the contract of assistance between the federal government and the applicant for federal funds and between the applicant and any recipient of federal funds; provided, however, that this arrangement shall not merge into the contract of assistance, but shall be independently binding and enforceable by and upon the parties thereto, and by any covered employee or his/her representative, in accordance with its terms, nor shall any other employee protective agreement merge into this arrangement, but each shall be independently binding and enforceable by and upon the parties thereto, in accordance with its terms.

(21) This arrangement shall be binding upon the successors and assigns of the parties hereto, and no provisions, terms, or obligations herein contained shall be affected, modified, altered, or changed in any respect whatsoever by reason of the arrangements made by or for the Recipient to manage and operate the system.

Any person, enterprise, body, or agency, whether publicly - or privately-owned, which shall undertake the management, provision and/or operation of the Project services or the Recipient's transit system, or any part or portion thereof, under contractual arrangements of any form with the Recipient, its successors or assigns, shall agree to be bound by the terms of this arrangement and accept the responsibility with the Recipient for full performance of these

conditions. As a condition precedent to any such contractual arrangements, the Recipient shall require such person, enterprise, body or agency to so agree.

(22) In the event of the acquisition, assisted with Federal funds, of any transportation system or services, or any part or portion thereof, the employees of the acquired entity shall be assured employment, in comparable positions, within the jurisdiction and control of the acquiring entity, including positions in the employment of any entity bound by this arrangement pursuant to paragraph

(21) All persons employed under the provisions of this paragraph shall be appointed to such comparable positions without examination, other than that required by applicable federal, state or federal law or collective bargaining agreement, and shall be credited with their years of service for purposes of seniority, vacations, and pensions in accordance with the records of their former employer and/or any applicable collective bargaining agreements.

(23) The employees covered by this arrangement shall continue to receive any applicable coverage under Social Security, Railroad Retirement, Workmen's Compensation, unemployment compensation, and the like. In no event shall these benefits be worsened as a result of the Project.

(24) In the event any provision of this arrangement is held to be invalid, or otherwise unenforceable under the federal, state, or local law, in the context of a particular Project, the remaining provisions of this arrangement shall not be affected and the invalid or unenforceable provision shall be renegotiated by the Recipient and the interested Union representatives, if any, of the employees involved for purpose of adequate replacement under Section 5333(b). If such negotiation shall not result in mutually satisfactory agreement any party may invoke the jurisdiction of the Secretary of Labor to determine substitute fair and equitable employee protective arrangements for application only to the particular Project, which shall be incorporated in this arrangement only as applied to that Project, and any other appropriate action, remedy, or relief.

(25) If any employer of the employees covered by this arrangement shall have rearranged or adjusted its forces in anticipation of the Project, with the effect of depriving an employee of benefits to which the employee should be entitled under this arrangement, the provisions of this arrangement shall apply to such employee as of the date when the employee was so affected.

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