

**CITY OF TRUSSVILLE**  
**CITY COUNCIL AGENDA WORKSHOP PRIOR TO REGULAR SESSION**  
**MAY 21, 2026**

- I. Call to Order
- II. Prayer – Councilor \_\_\_\_\_
- III. Pledge – Councilor \_\_\_\_\_
- IV. Roll Call
- V. Minutes – May 12 agenda workshop & regular session
- VI. Approve Consent Agenda & Regular Agenda
  - Consent Agenda*
    - *Declare Trussville Freedom Day on July 4th a Citywide Event*
    - *Appoint Tyler Braden to the Historical Board, succeeding Jane Alexander, with term ending April 5, 2028*
- VII. Public Comment (up to 3 minutes each)
- VIII. Regular Agenda
  - Ordinance to Grant a Non-Exclusive Franchise Agreement to Brightspeed of Alabama, Inc.
  - Ordinance to Annex the Properties Located at 7741 & 7744 Dollar Road
  - Resolution to Adopt the Division “G” Multi-Jurisdictional Hazard Mitigation Plan
  - Resolution to Approve the Tri-Party Agreement with the City of Birmingham & Norfolk Southern Railway Company for Redesign Alabama
- IX. Briefing by Finance Director Joseph Calvert
- X. Council/Mayor Reports
  - a. Horton – Tree Commission, Utilities, Public Safety, Design Review
  - b. Jackson – Finance, Active Transportation, Planning & Zoning, Inspections, Downtown Redevelopment
  - c. Miller – Veterans, ACTA, Historical
  - d. Farr – Library, IDA, Parks & Recreation, Chamber, Public Works, Senior Citizens
  - e. Anderson – Finance, Cemetery, Beautification, BOE, Leadership Trussville
  - f. Mayor – Administration
- XI. Audience (2 minutes each)
- XII. Adjourn
- XIII. Briefings

**CITY OF TRUSSVILLE MINUTES**

**MAY 12, 2026 AGENDA WORKSHOP**

*Pending*

**MAY 12, 2026 REGULAR SESSION**

*Pending*

**AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO BRIGHTSPEED OF ALABAMA, INC, F/K/A CENTURYTEL OF ALABAMA, LLC ("BRIGHTSPEED") TO OPERATE AND MAINTAIN A TELECOMMUNICATIONS SYSTEM WITHIN THE PUBLIC RIGHT-OF-WAY AND ALONG THE PUBLIC STREETS OF THE CITY OF TRUSSVILLE, ALABAMA.**

**WHEREAS**, the public interest will be served by the granting of a non-exclusive franchise to Brightspeed to erect, install, construct, reconstruct, maintain, operate, dismantle, test, repair, replace, retain, and use a telecommunication system in, upon, along, across, above, over, under or in any manner connected with the streets, lanes, avenues, sidewalks, alleys, bridges, and highways, and other public places in the City of Trussville, Alabama as the same now or in the future may exist, in accordance with the terms and conditions as set forth below.

**NOW THEREFORE BE IT ORDAINED by the City Council of the City of Trussville Alabama**, while in regular session a quorum duly assembled as follows:

**Section 1 Title**

This ordinance shall be known and cited as the "City of Trussville Brightspeed Non-Exclusive Franchise Agreement." Within this document it shall also be referred to as the "Agreement" or the "Franchise".

**Section 2 Definitions**

For purposes of this Franchise, in addition to the words and phrases defined elsewhere in this Agreement, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number, and the use of any gender shall include all genders, as applicable. The words "shall" and "will" are mandatory and "may" is permissive.

2.1 "City" or "Grantor" means the City of Trussville, Alabama.

2.2 "Governing Body" or "City Council" means the City Council of the City of Trussville, Alabama.

2.3 "Person" means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, limited liability company, sole proprietorship, political subdivision, public or private agency of any kind, utility, successor or assign of any of the foregoing, or any other legal entity.

2.4 "Rights-of-way" means the surface and space above and below any public street, boulevard, road, highway, freeway, lane, alley, sidewalk, parkway, driveway, public ways, or other public rights of way, including, public utility easements, dedicated utility strips or rights of way dedicated for compatible uses held by the City or location within the City which shall entitle the City and the Grantee to use the same for the purpose of installing, operating, repairing and maintaining the System.

2.5 "System" shall mean a system of conduits, cables, wires, lines, towers, wave guides, fiber optic cable, antennae, and any associated converters., equipment and all other facilities and appurtenances associated with the provision of Telecommunications Service by Grantee in accordance with the terms and conditions contained in this Agreement.

2.6 "Force Majeure" means a strike, acts of God, acts of public enemies, orders of any kind of a government of the United States of America or of the State or any of their departments, agencies, political subdivisions; riots, epidemics, pandemics, landslides, lightning, earthquakes, fires, hurricanes, tornadoes, volcanic activity, storms, floods, washouts, droughts, civil disturbances, explosions, partial or entire failure of utilities or any other cause or event not reasonably within the control of the disabled party.

2.7 "Grantee" means Brightspeed of Alabama, Inc f/k/a CenturyTel of Alabama, LLC, its agents, lawful successors, transferees, or assignees.

2.8 "Gross Revenues" means only those revenues actually received by Grantee from the provision of retail Telecommunications Services provided over Grantee's Facilities located in the Public Rights-of-Way within the Franchise Area. Gross Revenues shall not include: (i) intercarrier compensation; (ii) revenues from services that both originate and terminate outside the Franchise Area; and (iv) federal, state, or local taxes, fees, or surcharges collected from customers and remitted to a governmental entity. Gross Revenues shall be determined in accordance with generally accepted accounting principles consistently applied and shall not be double counted. Gross Revenues shall exclude any revenue that the City is preempted from assessing under applicable federal or state law.

2.9 "Public Property" means any real property other than a street owned by the City / Grantor.

2.10 "State" means the State of Alabama.

2.11 "Street" or "Streets" mean the surface of and the space above and below any street, road, highway, freeway, lane, path, way, alley, court, sidewalk, boulevard, park-way, drive, or any public easement or right-of-way now or hereafter held by the City which shall entitle Grantee to the use thereof for the purpose of installing or transmitting over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be ordinarily needed for a System.

2.12 "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing (e.g., data, video, and voice), without change in the form or content of the information as sent and received.

2.13 "Telecommunications Service" or "Service" means the transmission, conveyance, or routing of voice, data, audio, video, or other information or signals between or among points specified by the user, of the user's choosing, without change in the form or content of the information as sent and received, when such services are offered for a fee to customers using the Grantee's Facilities located in the Public Rights-of-Way within the City. Telecommunications Services shall not include information services, cable services, video programming services, advertising services, or the sale or lease of customer premises equipment.

### **Section 3 Grant of Authority**

For the purposes of constructing, operating and maintaining a System in the City and providing Telecommunications Services, Grantee may erect, install, construct, repair, replace, relocate, reconstruct and retain in, on, over, under, upon, across and along the Streets, including over public rights-of-way and through casements, within the City such lines, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, pipes, transmission lines, meters, equipment and all other facilities associated with the operation of a fiber-optic transmission line and other operating equipment as are necessary and pertinent to the operation of the System and providing Telecommunications Service.

### **Section 4 Compliance with Applicable Laws and Ordinances**

A) This Franchise is granted pursuant to the terms and conditions contained herein. Such terms and conditions shall be subordinate to all applicable provisions of state and federal laws, rules and regulations. Grantee and Grantor shall comply with all applicable federal and state laws and regulations.

B) Grantee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety and welfare of the public that are not otherwise inconsistent with the terms and conditions of this Franchise. Grantee shall comply with all applicable general laws and ordinances lawfully enacted by the City.

### **Section 5 Franchise Area**

This Franchise is granted for the full corporate and territorial boundary of the City (the "Franchise Area"). In the event of annexation of any new territory by the City, any such new territory shall become part of the franchise area.

### **Section 6 Franchise Term**

Duration and Term. The franchise granted hereunder shall be for an initial term often (10) years (the "Initial Term") commencing on the effective date of this Ordinance and Agreement, unless otherwise lawfully renewed, revoked or terminated as herein provided. Upon the expiration of the Initial Term, the Company or the City shall have the option to renew this Agreement for one additional term of ten (10)

years, subject to the terms and conditions contained herein, by giving written notice, at least sixty (60) days before the expiration of the Initial Term, to the other party of the renewing party's intent to renew this Agreement for the additional term upon the terms and conditions stated herein.

#### **Section 7 Franchise Non-Exclusive**

The Franchise granted herein is non-exclusive. The City specifically reserves the right to grant, at any time, one or more additional franchises for a System in accordance with state and federal law; provided, however, no such future franchise shall be granted on terms more favorable or less burdensome than those contained herein. In the event a future franchise is granted on terms more favorable or less burdensome than those contained herein, then this Franchise shall be deemed amended as of the effective date of the future franchise to incorporate the more favorable or less burdensome term(s) or condition(s) herein.

#### **Section 8 Written Notice**

All notices or demands required to be given under this Franchise shall be deemed to be given when delivered personally to the persons designated below or upon the date actually received as evidenced by certified mail receipt addressed as follows:

**If to the City:**

City of Trussville, Alabama  
Attn: City Clerk  
131 Main Street  
Trussville, Alabama 35173

**With a copy to:**

Garrick L. Stotser  
Massey, Stotser, & Nichols, PC  
1780 Gadsden Hwy  
Birmingham, Alabama 35235  
Email: [rstotser@msnattomeys.com](mailto:rstotser@msnattomeys.com)

**If to Grantee:**

Brightspeed of Alabama, Inc f/k/a CenturyTel of Alabama, LLC  
c/o \_\_\_\_\_, (Title)  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Email: \_\_\_\_\_

Addresses may be changed by either party upon notice to the other party given as provided in this Section.

#### **Section 9 Repair of Streets and Property**

Any and all Streets or Public Property or private property which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the System shall be promptly repaired by Grantee in accordance with the City's ordinances and codes and to a condition as good as that prevailing prior to Grantee's work

#### **Section 10 Construction and Use of Facilities**

A) The Grantee shall have the right to construct the system and to make installations of equipment at locations as it may find necessary for the proper construction and maintenance of the System. Approval shall be procured by the Grantee from the proper City department providing for the construction and installation of the System, which approval shall not be unreasonably withheld.

B) The Grantee's Telecommunication System, shall be located, erected, and maintained, so as not to endanger or interfere with the lives of persons or to interfere with any improvements the City may deem proper to make or to unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, sidewalks, or other public property. Removal or relocation of poles or equipment when necessary to avoid such interference shall be at the Grantee's expense.

C) Construction and maintenance of the System shall be performed in an orderly and workmanlike manner. Grantee shall at all times comply with the National Electrical Safety Code and such

applicable ordinances and regulations of the City affecting electrical and structural installations which may be presently in effect or changed by future ordinance.

D) All installations of System facilities shall be of a permanent nature, durable, installed in accordance with good engineering practice, and, where necessary, at such a height so as to comply with all existing City regulations, ordinances, and State laws, so as not to interfere with the right of the public or individual property owner and shall not interfere unduly with the travel and use of public places by the public during the construction, repair, or removal thereof, and shall not unduly obstruct or impede traffic.

E) The Grantee shall maintain its System so that cables, wires, poles and other facilities shall conform to the pattern of the existing public utility cables, wires, poles and other facilities, subject to the right of the City to require relocation, either overhead or underground, of such cables, wires, poles and other facilities when the City determines that such relocation is necessary and in the public interest but not for arbitrary and capricious reasons. Provided, however, Grantee shall not be required to relocate all or a portion of its System underground unless all other utilities located within the City Rights-of-Way are also required to re-locate underground. Any such relocation shall be at the Grantee's expense unless any other utilities are compensated for such relocation in which case the Grantee shall be similarly compensated.

F) Whenever by reason of the construction, repair, maintenance, relocation, widening, raising, lowering of the grade, or vacation of any street by the City or by the location or manner of construction, reconstruction, maintenance or repair of any public property, structure or facility by the City, or any public improvement, municipally owned or operated utility services or pursuant to any plan adopted by the City, or any public improvement, municipally owned or operated utility services or pursuant to any plan adopted by the City for rehabilitating any section of the City, it shall be deemed necessary by the City for the Grantee to move, relocate, change, alter or modify any of its facilities or structures, such change, relocation, alteration or modification shall be promptly made by the Grantee. Any such relocation shall be at the Grantee's expense unless a utility is compensated for relocation of their facilities in which case the Grantee shall be similarly compensated. In the event the Grantee, after such notice, fails or refuses to commence, pursue or complete such relocation work within a reasonable time, the City shall have the authority, but not the obligation, to remove or abate such structures of facilities and to require the Grantee to pay to the City the cost of such relocation, alteration, or modification. If the Grantee fails to complete in a timely manner, any relocation requested by the City and the City incurs any costs resulting from such delay, the Grantee shall be liable to the City for such costs.

G) The Grantee shall upon request, of any person holding a building moving permit or permit to move oversize loads issued by the City, temporarily raise or lower its wires to permit the moving of buildings or oversize loads. The expense of such temporary removal or raising or lowering of the wires shall be paid by the person requesting the same and Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than seventy-two (72) hours advance notice to arrange for such temporary changes.

H) The Grantee shall have the authority to trim trees upon and overhanging the streets of the City as to prevent the branches of such trees from coming in contact with the Grantee's wires and cables.

#### **Section 11 Legal Obligations**

A) The Grantee shall, at its sole cost and expense, indemnify, defend and hold harmless the City, its officers, boards, commissions, agents and employees, against and from any and all claims, demands, causes of actions, suits, proceedings, damages, liabilities and judgments of every kind arising out of or due to the Grantee's construction or operation of the System in the City, including but not limited to damages for injury or death or damages to property, real or personal, and against all liabilities to others and against all loss, cost and expense, resulting or arising out of any of the same, including reasonable attorney fees, costs of court and expenses related thereto. Notwithstanding the foregoing, Grantee shall not be required to indemnify the City to the extent any such claim arises from the negligence or willful misconduct of the City, its officers, boards, commissions, agents, or employees.

B) The Grantee shall, at the sole risk and expense of the Grantee, upon demand of the City made by and through the City Attorney, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, quasi-judicial, administrative, or otherwise brought or instituted

or had by third persons or duly constituted authorities, against or affecting the City, its officers, boards, commission, agents, or employees, arising out of or due to the Grantee's construction or operation of the System in the City. Grantee's obligation in this regard shall include the reimbursement of reasonable attorney's fees, cost of court, and expenses related thereto incurred by the City in defense of any such claims, suits, actions or other legal proceedings, provided that the City gives written notice within thirty (30) days of the receipt of such claim and permits Grantee to control the defense and settlement thereof, subject to City's consent which shall not be unreasonably withheld. Grantee shall not be responsible for any settlement entered into without its prior written consent, which shall not be unreasonably withheld.

C) The Grantee shall pay and satisfy and shall cause to be paid and satisfied any judgment, decree, order, directive, or demand, rendered made or issued, against the Grantee, the City, its officers, boards, commissions, agents or employees, for the foregoing; and such indemnity exist and continue without reference to or shall not be limited solely by the amount of any bond, policy of insurance, deposit, undertaking or other assurance required hereunder or otherwise, but only to the extent provided in this Section.

D) In order for the City to assert its rights to be indemnified, defend and held harmless, the City must:

- 1) Promptly notify Grantee of any claim or legal proceeding which gives rise to such right;
- 2) Afford Grantee the opportunity to participate in and fully control any compromise, settlement, resolution or disposition of such claim or proceeding; and
- 3) Fully cooperate in the defense of such claim and make available to Grantee all such information under its control relating thereto.

#### **Section 12 Compliance with Applicable Laws**

All work undertaken in connection with the construction, reconstruction, maintenance, operation or repair of the Grantee's System shall be subject to and governed by all present laws, rules and regulations of the City, the State and the United States of America, including any federal agency having jurisdiction.

#### **Section 13 Liability Insurance**

A) Grantee shall maintain, throughout the term of this Franchise, liability insurance insuring the City (as additional insured) and the Grantee with regard to all damages mentioned in Section 11 above in the following minimum amounts:

- 1) One Million Dollars (\$1,000,000) for bodily injury or death to any one person;
- 2) Three Million Dollars (\$3,000,000) for bodily injury or death resulting from

any one occurrence; and

3) One Million Dollars (\$1,000,000) for all other types of liability.

B) Grantee shall furnish to the City satisfactory evidence that an insurance policy has been obtained and is in full force and effect.

C) Should any of the above-described policies be canceled before the expiration date thereof, notice will be given to the City. This provision in no way modifies or limits Grantee's obligation to maintain the insurance required by subsection A.

#### **Section 14** **Transfer or Assignment of Franchise**

The rights granted herein shall not be transferred or assigned by the Grantee without written consent of the City. Such consent shall not be unreasonably withheld. No transfer or assignment shall become effective until the transferee or the assignee has filed with the City its written acceptance of the terms and conditions of this Franchise. Notwithstanding anything to the contrary, Grantee shall have the right, without the prior consent of the City, to transfer or assign this franchise to any person controlling, controlled by or under the same common control as the Grantee.

#### **Section 15 Franchise Renewal**

This Franchise shall be renewed in accordance with applicable state and federal Law and as otherwise set forth herein.

#### **Section 16 City's Right to Revoke**

In addition to all other rights which City has pursuant to law or equity, the City reserves the right to revoke, terminate or cancel this Franchise and all rights and privileges pertaining thereto, subject to the revocation procedures set forth in Section 17, in the event that:

- A) Grantee violates any material provision of this Franchise; or
- B) Grantee practices any fraud upon the City; or
- C) Grantee ceases providing Telecommunications Services within the Franchise Area for a continuous period of one hundred eighty (180) days due to a final and non-appealable judicial determination of insolvency, and fails to resume service within such period; provided, however, that the filing of any petition under federal or state bankruptcy laws, the appointment of a receiver, or the restructuring of debt shall not constitute grounds for revocation, and the City shall not revoke this Franchise so long as Telecommunications Services continue to be provided within the City.

#### **Section 17 Revocation Procedures**

A) The City shall notify the Grantee of its intention to revoke, terminate or cancel this Franchise. The written notice shall describe in reasonable detail the specific violation so as to afford Grantee an opportunity to remedy the violation.

B) Grantee shall have ninety (90) days subsequent to receipt of the notice in which to correct the violation before the City may formally revoke, terminate or cancel this Franchise. Grantee may, within thirty (30) days of receipt of the notice, notify the City that there is a dispute as to whether a violation has, in fact, occurred. Such notice by Grantee to the City shall stay the ninety (90) day period described above.

C) The City shall hear Grantee's dispute and shall determine whether a default or violation by Grantee has occurred. In the event the City shall determine that a default or violation has occurred the City shall supplement the decision with written findings of fact.

D) If after hearing the dispute, Grantee has been found to be in default, Grantee shall then have ninety (90) days from such a determination to remedy the violation or failure. At any time after that ninety (90) day period the City may, by formal action at a public hearing affording reasonable notice and opportunity for Grantee to be heard, revoke, terminate or cancel this Franchise.

#### **Section 18 Removal Upon Revocation**

Upon the revocation of this Franchise as herein provided, Grantee shall remove all of its attachments and wires from poles and Streets used as authorized herein within 180 days or such longer time as agreed to by the parties. The City shall continue to allow Grantee full access to the Streets during this time period for the purposes of such removal.

#### **Section 19 Force Majeure**

If by reason of a Force Majeure any party is unable in whole or in part to carry out its obligations hereunder, that party shall not be deemed to be in violation or default during the continuance of such inability.

#### **Section 20 Maps**

Grantee shall, upon reasonable written request and for legitimate municipal planning purposes, provide the City with general location information reasonably sufficient to identify the presence of Grantee's Facilities within the Public Rights-of-Way. Detailed engineering drawings, strand maps, fiber counts, splice diagrams, or other proprietary network information shall not be required. Any information provided pursuant to this Section shall be treated as confidential and exempt from public disclosure to the fullest extent permitted by applicable law, and the City shall provide prompt written notice to Grantee of any request for such information and cooperate with Grantee in seeking to prevent disclosure. Grantee shall not be required to provide annual updates absent a material change within the Public Rights-of-Way. Provided that the City complies with all applicable utility location and damage prevention laws and utilizes the applicable utility locate system prior to commencing excavation or other work within the Public Rights-of-Way, Grantee hereby releases and holds harmless the City from any disruption of Grantee's provision of Telecommunications Services or damage or destruction of the Grantee's Facilities resulting from the City's reliance on the location information provided by Grantee or any applicable utility locate system pursuant to this Section.

#### **Section 21 Confidentiality**

The City shall maintain confidentiality of information provided by the Grantee when Grantee has designated such information as confidential or proprietary. The City shall provide Grantee with notice of any request by a third party for such information and shall not provide any confidential information in response to such request for at ten (10) after written notice has been provided to Grantee.

#### **Section 22** **Unauthorized Connections or Modifications**

- A) It shall be unlawful for any Person, without the expressed consent of the Grantee to make any connection, extension, or division whether physically, acoustically, inductively, electronically or otherwise with or to any segment of the System for any purpose whatsoever.
- B) It shall be unlawful for any Person to willfully interfere, tamper, remove, obstruct or damage any part, segment or content of the System for any purpose whatsoever.
- C) It shall be unlawful for any Person to construct, operate or maintain a System without having first applied for and received a franchise from the City.
- D) Any Person convicted of a violation of this Section shall be subject to the penalty provisions of the City which penalty provisions are incorporated herein by reference.

#### **Section 23 Franchise Fee Payments**

Subject to applicable law, the Grantee shall pay to the City five percent (5%) of the annual Gross Revenues. Gross Revenues on telecommunications services that originate in another municipality, and terminate in the City shall be evenly apportioned among the two for the purposes of calculating the fee owed to each by the Grantee, such that the aggregate franchise fee paid by the Grantee shall not exceed five percent (5%) of the Gross Revenue on said Services. The franchise fee shall be due and payable quarterly within 45 days of the end of each calendar quarter. The Grantee shall pay the City an additional charge of one percent (1%) per for each thirty (30) day period the total amount due the City is not received after the aforementioned 45 day period. The City shall have the right to audit, at reasonable times and places, the books and financial records of the Grantee related to this Franchise to verify franchise fee payments for the three (3) years immediately preceding the initiation of such audit. If such audit or re-calculation determines that the franchise fee

hereunder was underpaid by more than five percent (5%), the costs and expenses of such audit or recalculation shall be borne by the Grantee. The City represents and agrees that the financial terms of this Franchise, including without limitation the franchise fee set forth in this Section, are no less favorable to Grantee than those offered by the City to other telecommunications companies seeking the same or similar rights from the City.

#### **Section 24 Severability**

If any term, condition or Section of this Franchise or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition or Section to persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Franchise and all the terms, conditions and Sections hereof shall, in all other respects, continue to be effective and to be complied with.

#### **Section 25 Miscellaneous**

The captions and headings of this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning and interpretation of any provisions of this Agreement. This Agreement shall not be construed against either party as drafter or provider. This Franchise Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all parties shall not have signed the same counterpart.

#### **Section 26** **Passage and Effective Date**

This Ordinance and Franchise Agreement shall take effect on and after its adoption by the City Council and acceptance by Grantee, and publication or other notice to the extent required by law.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

ADOPTED AND APPROVED THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_  
2026

CITY OF TRUSSVILLE

By: \_\_\_\_\_  
Ben Short, Mayor

By: \_\_\_\_\_  
Jamie Melton Anderson, Council President

**CERTIFICATION OF CITY CLERK**

STATE OF ALABAMA       )  
JEFFERSON COUNTY       )

I, Dan Weinrib, City Clerk of the City of Trussville, Alabama, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance duly adopted by the City Council of the City of Trussville, Alabama, on the \_\_\_\_\_ day of \_\_\_\_\_ 2026.

The above and foregoing ordinance was published on the \_\_\_\_ day of \_\_\_\_\_ 2026 by posting copies thereof in three public places within the City of Trussville, one of which was at Trussville City Hall.

Witness my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_ 2026

[EXECUTION CONTINUED ON THE FOLLOWING PAGE]

**APPROVED AND ACCEPTED:**

BRIGHTSPEED OF ALABAMA, INC, F/K/A  
CENTURYTEL OF ALABAMA, LLC

[SEAL]

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

As Its: \_\_\_\_\_

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

ATTEST:

\_\_\_\_\_

**CITY COUNCIL OF THE CITY OF TRUSSVILLE, ALABAMA**

**Ordinance No. 2026- -ANX**

**AN ORDINANCE TO ALTER AND REARRANGE THE BOUNDARY LINE  
OF THE CITY OF TRUSSVILLE, ALABAMA, SO AS TO INCLUDE  
WITHIN THE CORPORATE LIMITS CERTAIN OTHER TERRITORY  
CONTIGUOUS TO SAID CITY**

**WHEREAS**, this Council does hereby determine that matters set forth in that certain petitions of:

**Elijah F. & Taylor M. Brown  
7741 Dollar Road, Trussville, Alabama 35173  
Parcel No. 11-00-32-3-000-042.000-RR**

**Donald & Helen Cauble  
7744 Dollar Road, Trussville, Alabama 35173  
Parcel No. 11-00-32-3-000-041.007-RR**

wherein the owners of the properties described therein and hereinafter described in this Ordinance, requested that said properties be annexed to the City of Trussville are true, and that it is in the public interest that said properties be annexed to the City of Trussville.

**NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Trussville, Alabama** as follows:

Section 1. Incorporation: That under the provisions of the Code of Alabama, 1975, 11-42-21, the corporate limits of the City of Trussville, Alabama be, and the same are altered and rearranged so as to include, in addition to the territory already within the corporate limits of said City, the territory described in Exhibit "A" attached hereto and made a part hereof, which territory is contiguous to said City and not within the corporate limits of any other municipality.

Section 2. Zoning: The zoning of the properties described on Exhibit "A" attached hereto will convert to the most compatible City of Trussville zoning classification, that classification being A-1 with the stipulated prohibition on mobile or manufactured homes.

Section 3. Fire Dues: Pursuant to Act No. 604, as amended, of the 1976 Alabama Legislature, the City does hereby agree that if the territory described in this ordinance, or part thereof, is in any fire district organized under the laws of the State of Alabama, an amount shall be paid to the fire district equal to six times the amount of dues that the owner(s) of the territory being annexed paid to the fire district the preceding year, with said payment to be made by the property owners; otherwise, as to the defaulting property owners, this ordinance shall be null, void, and of no effect.

Section 4. Annexation Inspection Fee: The city's annexation inspection fee shall be collected from each petitioner upon approval of the annexation by the City Council. Failure to pay this fee shall render this ordinance null, void, and of no effect.

Section 5. Severability: If any part, section, or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding. If any part, section or subdivision of this ordinance or document, map, or petition to which it may refer shall be held unconstitutional or invalid as to any portion of the territory annexed herein, such holding shall not be construed to impair or invalidate the ordinance as to the territory not included in or affected by such holding.

Section 6. Publication: The City Clerk shall file a certified copy of the properties described in Exhibit "A" attached hereto, and a certified copy of this ordinance with the Probate Judge of the county in which the property is located, and also cause a copy of this ordinance to be published in a newspaper of general circulation in the City of Trussville, or to be published by posting as provided by law.

Section 7. Repealer: All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Trussville, Alabama which are inconsistent with the provisions of this ordinance are hereby expressly repealed.

ADOPTED AND APPROVED THIS THE 21ST OF MAY 2026

\_\_\_\_\_  
Jaime Melton Anderson, Council President

\_\_\_\_\_  
Ben Short, Mayor  
City of Trussville

Attest: \_\_\_\_\_  
Dan Weinrib, City Clerk

**CERTIFICATION OF CITY CLERK**

STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, Dan Weinrib, City Clerk of the City of Trussville, Alabama, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance duly adopted by the City Council of the City of Trussville, Alabama, on the 21st day of May 2026.

The above and foregoing ordinance was published on the 22nd day of May 2026 by posting copies thereof in three public places within the City of Trussville, one of which was at Trussville City Hall.

Witness my hand and seal of office this 22nd day of May 2026

\_\_\_\_\_  
Dan Weinrib MMC, City Clerk

ANNEXATION PETITION

TO: THE CITY OF TRUSSVILLE, ALABAMA, a municipal corporation

Comes now the undersigned, being all of the owners of the property described on Exhibit "A" attached hereto, which said property described is located and contained within an area contiguous to the corporate limits of the City of Trussville, Alabama, which said property does not lie within the corporate limits or police jurisdiction of any other municipality, and request that the property described on Exhibit "A" attached hereto be annexed to the said City of Trussville, Alabama, and further request the governing body of the City of Trussville, Alabama to adopt an ordinance assenting to the annexation of said property to the City of Trussville, Alabama so as to embrace said property and further providing that said property shall become a part of the corporate area of the City of Trussville, Alabama, upon the date of publication of the said ordinance.

The zoning of the property described on Exhibit "A" attached hereto will convert to the most compatible City of Trussville zoning classification, the current zoning classification being \_\_\_\_\_.

Pursuant to Act No. 604, as amended, of the 1976 Alabama Legislature, the City does hereby agree that if the territory described in this petition or part thereof, is in any fire district organized under the laws of the State of Alabama, an amount shall be paid to the fire district equal to six times the amount of dues that the owner(s) of the territory being annexed paid to the fire district the preceding year, with said payment to be made by the property owner(s); otherwise, as to the defaulting property owners(s), this ordinance shall be null, void, and of no effect.

Your petitioners would further show that Exhibit "A" contains an accurate legal description of the property or territory proposed to be annexed, and that attached hereto and marked Exhibit "B" is a map of said territory showing its relationship to the limits of the City of Trussville, Alabama, and that the signatures of all of the owners of the property sought to be annexed herein are affixed to this petition.

Elijah F. Brown

Print - Property Owner or Company Name

Elijah F. Brown  
Signature

Taylor M. Brown

Print - Property Owner or Company Agent

Taylor M. Brown  
Signature

7741 Dollar Rd

Property Address Trussville, AL

Owner Address (if different)

11-00-32-3-000-042.000

Tax Parcel I.D. No.

205-601-2997 / 251-209-2612

Owner telephone

2

Total Number of Household Occupants

2  
No. of occupants 18 years of age & older

Is property a fire district? Yes No

Circle One

2  
Ages of occupants under 18 years of age

**PARCEL #:** 11 00 32 3 000 042.000  
**OWNER:** BROWN TAYLOR MCLAIN & ELIJAH FRANKLIN  
**ADDRESS:** 7741 DOLLAR ROAD TRUSSVILLE AL 35173  
**LOCATION:** 7741 DOLLAR RD AL 35173

[ 111-D- ] Baths: 2.0 H/C Sqft: 1,400  
**06-038.0** Bed Rooms: 3 Land Sch: A121  
Land: 44,800 Imp: 128,600 Total: 173,400  
Acres: 0.000 Sales Info: 03/21/2022 \$150,000

<< Prev Next >> [ 1 / 0 Records ] Processing...

Tax Year : 2025 ▼

SUMMARY

LAND

BUILDINGS

SALES

PHOTOGRAPHS

MAPS

#### LAND COMPUTATION

|      |   | Code                | Acerage | Square Foot | Market Value | CU. Value |
|------|---|---------------------|---------|-------------|--------------|-----------|
| A424 | 3 | 111 HOUSEHOLD UNITS | 1.2     | 52272       | \$8,760.00   |           |
| A121 | 3 | 111 HOUSEHOLD UNITS | 1       | 43560       | \$36,000.00  |           |

#### ROLLBACK/HOMESITE/MISCELLANEOUS

#### LEGAL DESCRIPTION

SUB DIVISON1: MAP BOOK: 0 PAGE: 0  
SUB DIVISON2: MAP BOOK: 0 PAGE: 0

PRIMARY BLOCK: 0000 SECONDARY BLOCK: 0  
PRIMARY LOT: 0000 SECONDARY LOT: 0

**METES AND BOUNDS:** POB INTER OF W LINE OF GAS LINE ROAD AND S LINE OF SW4 TH W 532.1 FT TH N 182 FT TH E 511 FT TO SD ROAD TH SLY 183.3 FT ALG SD ROAD TO POB LYING IN SE4 OF SW4

#### SALES INFORMATION

|           |              |   |                                       |                 |                                       |
|-----------|--------------|---|---------------------------------------|-----------------|---------------------------------------|
| 3/21/2022 | \$150,000.00 | 1 | <b>BOOK:</b> 2022 <b>PAGE:</b> 033017 | Land & Building | BROWN TAYLOR MCLAIN & ELIJAH FRANKLIN |
| 2/9/2015  | \$1.00       | 2 | <b>BOOK:</b> 201511 <b>PAGE:</b> 7107 | Land            | JONES CARL L & LAWLER LISA A          |
| 10/1/1994 | \$71,900.00  | 1 | <b>BOOK:</b> 9412 <b>PAGE:</b> 004340 | Land & Building |                                       |

# ANNEXATION PETITION

TO: THE CITY OF TRUSSVILLE, ALABAMA, a municipal corporation

Comes now the undersigned, being all of the owners of the property described on Exhibit "A" attached hereto, which said property described is located and contained within an area contiguous to the corporate limits of the City of Trussville, Alabama, which said property does not lie within the corporate limits or police jurisdiction of any other municipality, and request that the property described on Exhibit "A" attached hereto be annexed to the said City of Trussville, Alabama, and further request the governing body of the City of Trussville, Alabama to adopt an ordinance assenting to the annexation of said property to the City of Trussville, Alabama so as to embrace said property and further providing that said property shall become a part of the corporate area of the City of Trussville, Alabama, upon the date of publication of the said ordinance.

The zoning of the property described on Exhibit "A" attached hereto will convert to the most compatible City of Trussville zoning classification, the current zoning classification being \_\_\_\_\_.

Pursuant to Act No. 604, as amended, of the 1976 Alabama Legislature, the City does hereby agree that if the territory described in this petition or part thereof, is in any fire district organized under the laws of the State of Alabama, an amount shall be paid to the fire district equal to six times the amount of dues that the owner(s) of the territory being annexed paid to the fire district the preceding year, with said payment to be made by the property owner(s); otherwise, as to the defaulting property owners(s), this ordinance shall be null, void, and of no effect.

Your petitioners would further show that Exhibit "A" contains an accurate legal description of the property or territory proposed to be annexed, and that attached hereto and marked Exhibit "B" is a map of said territory showing its relationship to the limits of the City of Trussville, Alabama, and that the signatures of all of the owners of the property sought to be annexed herein are affixed to this petition.

Donald & Helen Cauble

Print - Property Owner or Company Name

Donald & Helen Cauble

Print - Property Owner or Company Agent

7744 Dollar Rd.

Property Address

1100323000041.007

Tax Parcel I.D. No.

4

Total Number of Household Occupants

Is property in a fire district? ☒ Yes ☐ No

Circle One

Donald Cauble

Signature

Helen Cauble

Signature

Owner Address (if different)

205-532-3083

Owner telephone

4

No. of occupants 18 years of age & older

Ages of occupants under 18 years of age

|                     |                        |                        |
|---------------------|------------------------|------------------------|
| [ 111-D+ ]          | Baths: <b>2.0</b>      | H/C Sqft: <b>1,463</b> |
| <b>06-038.0</b>     | Bed Rooms: <b>3</b>    | Land Sch: <b>A121</b>  |
| Land: <b>33,300</b> | Imp: <b>142,200</b>    | Total: <b>175,500</b>  |
| Acres: <b>0.000</b> | Sales Info: <b>\$0</b> |                        |

**Tax Year :** 2025 ▼

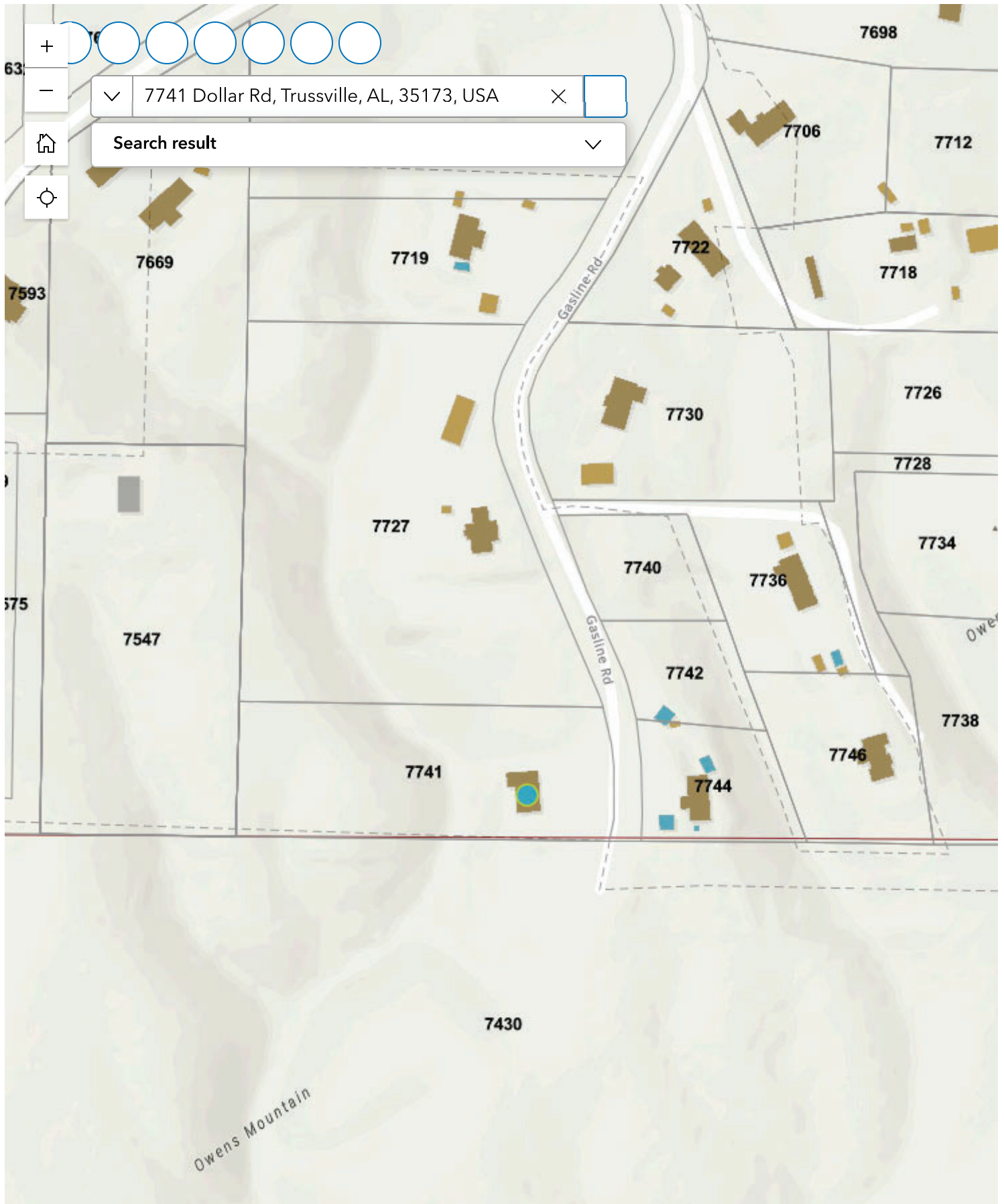
## MAPS

|      |   | Code                | Acerage | Square Foot | Market Value | CU. Value |
|------|---|---------------------|---------|-------------|--------------|-----------|
| A121 | 3 | 111 HOUSEHOLD UNITS | 0.7     | 30492       | \$33,260.00  |           |

### No Sales Information on Record



# Jefferson County Parcel Look-up



**Resolution No. 2026-**

**A Resolution Adopting the Division “G” Multi-Jurisdictional Hazard Mitigation Plan**

**WHEREAS**, the City of Trussville (the “City”) recognizes the threat that natural hazards pose to people and property within its jurisdiction; and

**WHEREAS**, the City has prepared a multi-hazard mitigation plans, hereby known as the Division “G” Multi-Jurisdictional Hazard Mitigation Plan in accordance with federal laws, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended; the National Flood Insurance Act of 1968, as amended; and the National Dam Safety Program Act, as amended; and

**WHEREAS**, Division “G” Multi-Jurisdictional Hazard Mitigation Plan identifies mitigation and actions to reduce or eliminate long-term risk to people and property in Trussville from the impacts of future hazards and disasters; and

**WHEREAS**, adoption by the City demonstrates its commitment to hazard mitigation and achieving the goals outlined in the Division “G” Multi-Jurisdictional Hazard Mitigation Plan

**NOW THEREFORE, BE IT RESOLVED by the City Council of Trussville, Alabama** that the City hereby adopts the Division “G” Multi-Jurisdictional Hazard Mitigation Plan, by reference. **(Exhibit A)** While content related to Trussville city government may require revisions to meet the plan approval requirements, changes occurring after adoption will not require the City Council to re-adopt any further iterations of the plans. Subsequent plan updates following the adoption period of this plan will require separate adoption resolutions.

ADOPTED AND APPROVED THIS THE 21ST OF MAY 2026

\_\_\_\_\_  
Jaime Melton Anderson, Council President

\_\_\_\_\_  
Ben Short, Mayor  
City of Trussville

Attest: \_\_\_\_\_  
Dan Weinrib, City Clerk

**CERTIFICATION OF CITY CLERK**

STATE OF ALABAMA   )  
JEFFERSON COUNTY   )

I, Dan Weinrib, City Clerk of the City of Trussville, Alabama, do hereby certify that the above and forgoing is a true and correct copy of the Resolution duly and legally adopted by the City Council of the City of Trussville, Alabama on the 21st day of May, 2026, while in regular session on Thursday, May 21, 2026, and the same appears of record in the minute book of said date of said City.

Witness my hand and seal of office this 22nd day of May 2026

\_\_\_\_\_  
Dan Weinrib MMC, City Clerk

**EXHIBIT A**

[Division-G-HMP EXP-16Dec25.pdf](#)

[\*\*ema.alabama.gov/wp-content/uploads/2025/06/Division-G-HMP\\_EXP-16Dec25.pdf\*\*](http://ema.alabama.gov/wp-content/uploads/2025/06/Division-G-HMP_EXP-16Dec25.pdf)

Resolution No. 2026-

**A Resolution Approving a Tri-Party Agreement with the City of Birmingham, Alabama & Norfolk Southern Railway Company**

**BE IT RESOLVED** by the City Council of the City of Trussville, Alabama, that a proposed agreement with the City of Birmingham, Alabama, and Norfolk Southern Railway Company (**Exhibit A**), is hereby approved.

ADOPTED AND APPROVED THIS THE 21ST OF MAY 2026

\_\_\_\_\_  
Jaime Melton Anderson, Council President

\_\_\_\_\_  
Ben Short, Mayor  
City of Trussville

Attest: \_\_\_\_\_  
Dan Weinrib, City Clerk

**CERTIFICATION OF CITY CLERK**

STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, Dan Weinrib, City Clerk of the City of Trussville, Alabama, do hereby certify that the above and forgoing is a true and correct copy of the Resolution duly and legally adopted by the City Council of the City of Trussville, Alabama on the 21st day of May, 2026, while in regular session on Thursday, May 21, 2026, and the same appears of record in the minute book of said date of said City.

Witness my hand and seal of office this 22nd day of May 2026

\_\_\_\_\_  
Dan Weinrib MMC, City Clerk

AGREEMENT BETWEEN THE  
CITY OF BIRMINGHAM, ALABAMA,  
CITY OF TRUSSVILLE, ALABAMA, AND  
NORFOLK SOUTHERN RAILWAY COMPANY  
FOR REDESIGN ALABAMA

THIS AGREEMENT is made this 13<sup>th</sup> day of May, 2026, by and between the **City of Birmingham, Alabama**, an Alabama municipality ("Birmingham"), the **City of Trussville, Alabama**, an Alabama municipality ("Trussville"), and **Norfolk Southern Railway Company**, a Virginia corporation ("NSR") (each sometimes referred to herein individually as a "Party" and collectively as the "Parties").

WITNESSETH THAT:

WHEREAS, the Consolidated Rail Infrastructure and Safety Improvements ("CRISI") Program provides Federal funding to eligible recipients to assist in financing the cost of improving passenger and freight rail transportation systems in terms of safety, efficiency, or reliability;

WHEREAS, the REDESIGN Alabama program is designed to update infrastructure and benefit Alabama by funding the elimination of nine at-grade crossings, construct three grade separation projects (including one pedestrian underpass), extend the Cahaba siding to Pape Junction, and install a new control point with universal crossovers at AG132, and extend AGS outbound to the new control point, thereby increasing the fluidity of freight and passenger rail operations in the region;

WHEREAS, Birmingham is the recipient of a FY 2022 CRISI grant in the amount of **Eight Million U.S. Dollars (\$8,000,000)** (the "CRISI Grant") to be used to advance REDESIGN Alabama;

WHEREAS, the Parties desire to work together to further REDESIGN Alabama by undertaking a project to design the work associated with the closure of at-grade railroad crossings and other infrastructure projects to alleviate blocked crossings from the Woodlawn neighborhood in Birmingham into Trussville, and erection of alternative routes to enhance public access in Alabama, as further described in Section I below (such design work referred to herein as the "Project");

WHEREAS, Birmingham and Trussville are municipalities in the State of Alabama with the authority to enter into contracts necessary for the proper discharge of their respective functions and duties, and have the authority pursuant to Section 11-102-1 et seq., Code of Alabama (1975) and Act No. 1969-916, Acts of Alabama to make the most efficient use of their respective powers by cooperating with each other on a basis of mutual advantage to thereby provide services and facilities in a manner that will accord best with geographic, economic, population and other factors influencing the needs and development of Jefferson County and such municipalities;

WHEREAS, Birmingham, as recipient of the CRISI Grant, has the necessary and incidental power to carry out its functions covered under this Agreement; and

WHEREAS, the Parties desire to enter into this Agreement to set forth their respective obligations with respect to the Project.

NOW THEREFORE, in consideration of the several promises to be faithfully performed by the Parties hereto as set forth below, Birmingham, Trussville, and NSR do hereby agree as follows:

**I. PROJECT DESCRIPTION**

- A. The Project is comprised of preliminary engineering, 30% design, right-of-way evaluation, and NEPA reviews and documentation for the REDESIGN Alabama program. Specifically, the Project consists of the design of three grade separations (including one pedestrian underpass), nine crossing closures, rail infrastructure improvements, roadway network improvements, and related work to create six miles of track unencumbered by at-grade crossings on NSR's AGS North and five miles on NSR's AGS South and East End Districts. For clarity, the Project does not include construction of any infrastructure and such construction will be subject to future funding and separate agreements.
- B. **EXHIBIT A**, attached hereto and incorporated herein, contains additional Project details and a map depicting the Project area.
- C. The CRISI Grant Agreement and all Attachments thereto are attached hereto and incorporated herein as **EXHIBIT B**. Except as otherwise preempted or otherwise exempted as to NSR, the Parties agree to comply with all applicable provisions of the CRISI Grant Agreement and any Attachments thereto as if all Parties are parties to the CRISI Grant Agreement.

**II. OBLIGATIONS OF THE PARTIES**

**A. Birmingham WILL:**

- 1. Comply with all applicable terms and conditions of the CRISI Grant Agreement and all attachments thereto relating to the Project.
- 2. Provide its maximum funding for the Project as more specifically set out in Section III of this Agreement.
- 3. Identify an employee(s) to serve as Birmingham's Project contact for Trussville and NSR.
- 4. Act as CRISI Grant recipient and project manager for the Project and will manage design and preliminary engineering work related to the Project as well as National Environmental Policy Act (NEPA) reviews and documentation.

5. Retain any necessary engineering design consultants or contractors to perform design work for the Project, including design of all railroad improvements necessary to accommodate the REDESIGN Alabama program. The railroad improvements necessary for the REDESIGN Alabama program, and which will be designed as part of the Project, include: (1) extension of the AGS Outbound, construct approximately 4,500 ft of additional track and associated roadbed and ancillary features (2) a new control point at AG-132 and ancillary features, (3) extension of NSR's Cahaba siding approximately 25,000 ft of additional track to Pape Junction at MP134 and associated roadbed and ancillary features, and (4) shoofly tracks, roadbed and other railroad improvements as warranted to support grade separations (collectively, items 1 through 4 referred to herein as the "Railroad Improvements"). For the avoidance of doubt, item 4 includes the associated design of crossing closures and such design of the grade separations that affect the operating capability or safety of NSR. All design of the Railroad Improvements will be subject to review and approval of NSR in accordance with Section II.C. herein.
6. Facilitate coordination between NSR, Trussville, and Birmingham's third-party engineering vendor for all Railroad Improvements and ensure NSR's approval prior to any work being done.
7. Require that all contractors and consultants retained by Birmingham for the Project will comply with and will require that their subcontractors or subconsultants will comply with, any funding obligations under the CRISI Grant and with Birmingham's and Trussville's Procurement Policy Memorandum (if any) requiring an approved Federal Acquisition Regulation (FAR)-compliant indirect cost rate to be on file with Birmingham.
8. Notify NSR and Trussville at least one week in advance of all in-person meetings relating to the securing of any consultant or contractor. All selection meetings will be documented in writing and said documentation shall be available for reasonable inspection by NSR, Trussville, and the United States Department of Transportation ("USDOT").
9. Provide written notification to NSR and Trussville prior to entering into any new consultant or contractor agreement. Any contractor or consultant retained to design the Project shall be subject to NSR's prior approval.
10. Incorporate into contracts for the Project all applicable federal, state and local required provisions and supplemental specifications in effect at the time of execution of this Agreement.
11. Perform all services required of Birmingham relating to the Project in accordance with all applicable laws and Birmingham's guidelines and policies. Only to the extent permitted by law, Birmingham agrees to be responsible for any loss resulting

from bodily injuries (including death) or damages to property arising out of any act or failure to act on Birmingham's part, or the part of any employees of Birmingham in performance of work undertaken under this Agreement.

12. Maintain, or cause to be maintained, the completed Project in conformance with and in compliance with all applicable requirements of 2 CFR Part 200 Subpart D.
13. Provide to NSR and Trussville, upon request, copies of all non-proprietary basic notes, sketches, charts, plans, correspondence, and other data prepared, furnished, or obtained by or for Birmingham or its agents for the Project. Without limiting the foregoing, Birmingham shall provide to NSR all design plans and specifications associated with the Project.
14. Retain all records pertaining to the Project for three (3) years after completion and acceptance of the Project and final audit. Such records shall be made available to NSR, Trussville, and USDOT for audit and review upon reasonable request.
15. Provide quarterly status reports for the Project to NSR and Trussville.
16. Ensure that any contractor or consultant retained by Birmingham for the Project that requires access to or does any work that otherwise affects NSR's right of way or operations will obtain an appropriate right of entry agreement from NSR for such work and nothing in this Agreement grants access rights absent such further agreement on scope and specifications for such access.

B. Trussville WILL:

1. Comply with all applicable terms and conditions of the CRISI Grant Agreement and all attachments thereto relating to the Project.
2. Provide its maximum funding for the Project as more specifically set out in Section III of this Agreement.
3. Identify an employee(s) to serve as Trussville's Project contact for Birmingham and NSR.
4. Perform all services required of Trussville relating to the Project in accordance with all applicable laws and Trussville's guidelines and policies.
5. Only to the extent permitted by law, be responsible for any loss resulting from bodily injuries (including death) or damages to property arising out of any act or failure to act on Trussville's part, or the part of any employee of Trussville in performance of work undertaken under this Agreement.

C. NSR WILL:

1. Except as preempted pursuant to federal law or otherwise exempted for railroads, comply with all applicable terms and conditions of the CRISI Grant Agreement and all attachments thereto relating to the Project.
2. Provide preliminary engineering contributions for the Project designed by Birmingham's contractor or consultant, either through its own forces or its consultants, to review and provide comments on Birmingham's plans and specifications and to enable a NSR decision on approval of the Railroad Improvements as to their effects on NSR's facilities, operations, and/or right of way. Such reviews may include, without limitation, standard preliminary engineering work such as reviewing plans and specifications, project management, coordination, administrative handling, generating invoices, travel expenses, and field review.
3. Review and approve plans that are in line with the Project for the Railroad Improvements and do not adversely affect its right of way, facilities, or operations.
4. Submit monthly invoices to the City for the cost associated with NSR's review and approval of Railroad Improvements' design plans and specifications for the Project and all other NSR preliminary engineering contributions for the Project under Section II.C.2 herein in a total amount not to exceed \$300,000. The costs for NSR's work shall include, without limitation, labor surcharges, insurance, department support costs, vehicles and equipment, and fixed general and administrative, using the most current additive rates as audited and approved by the Georgia Department of Transportation and the Federal Highway Administration, in accordance with applicable provisions of the Federal-Aid Policy Guide, 23 C.F.R. Part 140 Subpart I.
5. Support Birmingham's design work, preliminary engineering, and NEPA review efforts by providing right-of-way access, subject to applicable right of entry agreements for any contractors or consultants, and any coordination for or reviews of plans and specifications relating to the Project.
6. Perform all Project services in accordance with all applicable laws, regulations and guidelines applicable to the Project.
7. Provide to Birmingham and Trussville, upon request, copies of non-proprietary basic notes, sketches, charts, plans, correspondence, and other data prepared, furnished, or obtained by or for NSR or its agents for the Project, as applicable.
8. Retain all books, documents, papers, and accounting records pertaining to costs incurred for the Project for three (3) years after completion and acceptance of the Project and final audit. Such records shall be made available to Birmingham, Trussville and USDOT for audit and review upon reasonable request.

9. The Parties acknowledge that NSR is exempt from the audit requirements of the Single Audit Act but is required to maintain auditable records of Federal awards and to provide access to such records. All audits of NSR must be performed in accordance with 23 CFR Part 140 Subpart I.

### III. FUNDING

- A. The Parties estimate the total cost for the Project to be \$10,000,000 ("Project Cap").
- B. The CRISI Grant will provide \$8,000,000 in funding for the Project. Birmingham is responsible for 2.5% of the cost of the Project, for a maximum funding contribution of \$250,000. Trussville is responsible for 2.5% of the cost of the Project, for a maximum funding contribution of \$250,000. NSR is responsible for 15% of the cost of the Project, for a maximum funding contribution of \$1,500,000. For clarity, the \$1,500,000 maximum contribution is inclusive of the value of NSR's engineering review services which are to be reimbursed as provided in Section II.(C)4 above. In the event the Project cost approaches within 10% of the Project Cap, the Parties shall meet and confer on whether and how to fund any cost overruns in excess of the Project Cap. If the Parties cannot agree on paying any costs in excess of the Project Cap, then this Agreement shall terminate, and Birmingham shall ensure that no further work on the Project is conducted that would cause the costs to exceed the Project Cap.

The funding for the Project is indicated on the following Funding Table.

#### FUNDING TABLE

##### CRISI Funds and Additional Sources of Project Funds:

|                     |                     |
|---------------------|---------------------|
| CRISI Grant Funds:  | \$ 8,000,000        |
| Birmingham Funds:   | \$ 250,000          |
| Trussville Funds:   | \$ 250,000          |
| <u>NSR Funds:</u>   | <u>\$ 1,500,000</u> |
| Total Project Cost: | \$10,000,000        |

- C. No work or services performed relating to the Project prior to the complete execution of this Agreement and written notice to proceed will be eligible for reimbursement.
- D. Birmingham will receive and pay contractor invoices for the Project as incurred in accordance with the terms of those invoices. Birmingham will submit quarterly invoices to Trussville and NSR for reimbursement of Project costs for the amount of work done for the period covered by the invoices. The invoices will reflect each Party's respective proportionate share of the total amount due based on this Agreement. A reimbursement request shall be supported by suppliers' invoices and evidence of Birmingham's payment of such invoices. Such reimbursement requests and invoices will be certified as true and

correct by Birmingham and submitted to NSR and Trussville quarterly. **EXHIBIT C**, attached hereto and incorporated herein, represents an acceptable invoice form. NSR and Trussville will be obligated to reimburse Birmingham only up to their respective maximum contributions in Section III.B. Quarterly invoices submitted to Trussville shall be due within thirty (30) days of the invoice date. In lieu of such invoicing and payments, NSR and Trussville may elect to prepay its entire amount of maximum contributions for the Project to Birmingham at any time on or before the due date of the first invoice. In the event this Agreement is terminated as provided herein, Birmingham shall promptly refund to NSR and Trussville any remaining balance of such prepaid funding.

- E. Upon completion of the Project, Birmingham shall submit a Final Invoice for the Project. This invoice may be a \$0.00 invoice if NSR's and/or Trussville's maximum contributions, as applicable, have been paid to Birmingham. The Final Invoice shall include the certification as outlined in Section III.D. above.

#### **IV. SCHEDULE**

- A. The effective date of this Agreement is the date of execution by the Parties hereto as reflected in the Preamble to this Agreement. Birmingham shall begin Project work upon receipt of the Federal Railroad Administration (FRA)'s written notice to proceed.
- B. No work or services performed prior to the complete execution of this Agreement and written notice to proceed will be eligible for reimbursement.
- C. Birmingham anticipates that the Project will be substantially complete within twenty-four (24) months following the date of this Agreement.
- D. Birmingham must provide final Project completion and closure, which includes completion and acceptance of the Project by FRA and submittal of all closeout materials to FRA. If Birmingham fails to accomplish final Project completion within sixty (60) days of the substantial completion date, Birmingham shall reimburse NSR all funds provided by NSR and Birmingham shall not be eligible for additional NSR or Trussville funding until the Project is complete.
- E. Birmingham agrees to prosecute the Project's engineering and design work continuously and diligently from the date of written notice to proceed. Birmingham will keep NSR and Trussville informed about progress of the work.
- F. A "Force Majeure Event" means fire, flood, war, rebellion, terrorism, riots, strikes, or acts of God, which may affect or prevent Birmingham from timely or properly performing its obligations under this Agreement. If Birmingham believes a Force Majeure Event has occurred during the term that renders completion of design of the Project impossible or impractical, Birmingham may request termination of the Agreement. If NSR and Trussville concur with Birmingham's request, the Parties may terminate the Agreement upon written notice to the other Parties without any reimbursement obligation or other penalty imposed on any of the Parties. If one or both of NSR and Trussville do not concur, then the Parties

will cooperate in good faith to modify the Project schedule and take other actions reasonably necessary to complete the Project.

**V. PROCUREMENT REQUIREMENTS**

- A. Birmingham shall procure all goods and services necessary for the Project in accordance with all applicable Federal laws and regulations. Trussville shall not be responsible for procuring any goods or services necessary for the Project under this Agreement.
- B. If Federal or State law requires that a procurement for services be advertised, said procurements shall be advertised via publications in which Birmingham deems it appropriate to advertise in accordance with applicable law.
- C. At the completion of the Project, Birmingham shall complete and submit to NSR and Trussville a Certification of Procurement in a form to be mutually agreed upon by the Parties, certifying that all the above procurement requirements have been met for the Project and providing a list of all consultants, contractors, and vendors used on the Project, and the total dollar value paid to each.

**VI. GENERAL PROVISIONS**

- A. The Parties agree that this Agreement shall be governed by the laws of the State of Alabama as to all matters, including but not limited to matters of validity, construction, effect and performance, without regard to its conflict of law provisions. The Parties further agree that the proper venue for all actions regarding this Agreement shall be a court of competent subject matter jurisdiction in Jefferson County, Alabama, including the United States District Court for the Northern District of Alabama, Birmingham Division.
- B. The Parties hereto agree to conform to all applicable State, Federal, and local laws, rules, regulations, and ordinances governing agreements or contracts. The Parties shall comply with all applicable regulations, codes and laws affecting the work on the Project, and nothing in this Agreement constitutes an exemption or grant of a variance from applicable codes and laws. Furthermore, this Agreement is not intended to expand or contract the regulatory authority of any municipal Party or any other public agency. All existing regulatory matters of jurisdiction and exemptions from such jurisdiction under all federal and state laws and regulations remain in full force and effect.
- C. NSR's examination and approval of any plans, specifications, drawings, maps, and other work prepared or performed by Birmingham or any of Birmingham's contractors or agents does not in any manner shift responsibility to NSR or NSR's officers and employees. By its review and approval of any plans and specifications provided by Birmingham or contractors procured by Birmingham, for the Project, NSR conveys only that the plans and improvements that would be constructed in accordance with the plans and specifications satisfy NSR's requirements. NSR expressly disclaims all other representations and warranties in connection with said plans and specifications, including without limitation the integrity, suitability, or fitness for the purposes of Birmingham, Trussville, or any

person(s) of the plans or improvements that may be or are constructed in accordance with the plans and specifications. Nothing in this Agreement constitutes NSR's approval of construction and/or maintenance of any specific projects contemplated under the REDESIGN Alabama program, which, if and to the extent approved by NSR, will be subject to separate construction and/or maintenance agreement(s).

- D. Any and all reviews and approvals required of the Parties herein shall not be unreasonably denied, delayed, or withheld. To the extent practical, approvals, reviews, and responses should be provided within forty-five (45) calendar days by the Parties.
- E. Birmingham and its respective agents shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement or the work provided for herein. Birmingham and its respective agents shall endeavor to carry out applicable requirements of 49 C.F.R. Part 26 in the administration of this Agreement. By execution of this Agreement, Birmingham hereby agrees to provide NSR and Trussville with any documents required to establish such compliance upon written request.
- F. By execution of this Agreement, Birmingham certifies that Birmingham and its consultants, subconsultants, contractors, and employees that work on the Project will comply with all applicable Alabama Ethics and Government Accountability guidelines.
- G. By execution of this Agreement, Birmingham certifies that Birmingham and its consultants, subconsultants, contractors, and employees that work on the Project will comply with required applicable provisions found in Exhibits, Appendices, and Attachments to the CRISI Grant.
- H. Birmingham certifies that it is not presently debarred, suspended, proposed for debarment, or declared ineligible by any governmental agency from receiving Federal funds, and further certifies that all consultants and contractors that work on the Project are not presently debarred, suspended, proposed for debarment, or declared ineligible by any government agency.
- I. Birmingham and its consultants, subconsultants, contractors, employees, and agents must remain in compliance with:
  - 1. All applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-13870);
  - 2. All applicable provisions of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act;
  - 3. All applicable provisions of the Buy America Act, found at 23 U.S.C. § 313 and 23 C.F.R. § 635.410; and

4. All applicable provisions of the Buy American Act found at 41 U.S.C. §§ 8301 – 8305.
- J. Birmingham agrees to hold consultations with NSR and Trussville as may be necessary with regard to the execution of any supplements, amendments, or modifications to this Agreement during the course of the Project for the purpose of resolving any items that may have been unintentionally omitted from this Agreement by the Parties. Such supplements, amendments, or modifications shall be subject to the approval and proper execution of the Parties hereto. No supplement, amendment, or modification shall be effective or binding on any Party hereto unless such supplement, amendment, or modification has been agreed to in writing by the Parties hereto.
- K. Prior to Final Project Completion, this Agreement may be terminated by Birmingham upon written notice, provided that Birmingham covers all costs incurred prior to termination and as a result of termination, including the repayment of all Federal funds and all NSR funds. Provided that Birmingham is not in default at the time of termination, Birmingham will submit final invoices to Trussville and NSR for their respective shares of the final unpaid contractor invoices for the Project as of the date of termination. In the event that NSR elects to prepay its obligated amount of maximum funding for the Project, in accordance with section III.D, Birmingham will reimburse NSR for any remaining balance of such prepaid funding. If Birmingham fails to advance the Project to Final Project Completion due to a material breach by Birmingham, NSR or Trussville may terminate this Agreement upon written notice to the other Parties and Birmingham shall be responsible for Trussville's and NSR's costs incurred prior to termination and as the result of termination, including the repayment of Federal funds and all NSR funds. Upon written notification of termination, all Project work shall cease, unless otherwise directed. Notwithstanding the foregoing, upon any proposed or actual termination for any reason other than de-appropriation of CRISI grant funds, Birmingham shall have ninety (90) days from its receipt of the written notice from NSR or Trussville to cure any breach and avoid termination. In the event the Parties becomes aware that insufficient funds will be or have been appropriated or otherwise available to Birmingham for the Project, payment obligations assumed by the Parties under this Agreement shall cease and this Agreement shall be terminated in accordance with this paragraph. Birmingham shall provide NSR and Trussville thirty (30) days' notice of such impending funding unavailability.
- L. In the event a Party shall violate or fail to comply with any provision or obligation of this Agreement including the failure to make payments when due to any other Party and such failure shall continue for a period of thirty days after receipt of written notice, the non-breaching Party(ies) may declare the breaching Party(ies) to be in default of this Agreement. As to any event of default not involving non-payment, any obligation that a Party failed to perform shall be deemed a ministerial act and subject to the remedies of mandamus and mandatory injunction requiring the breaching Party(ies) to perform the obligation, and the non-breaching Party(ies) shall be deemed to have no adequate remedy at law for such event of default.

M. No waiver of any event of default by the Parties hereunder shall be implied from any delay or omission by a non-defaulting Party to take action on account of such event of default, and no express waiver shall affect any event of default other than the event of default specified in the waiver and it shall be operative only for the time and to the extent therein stated. Waivers of any covenants, terms, or conditions contained herein must be in writing and shall not be construed as a waiver of any subsequent or other breach of the same covenant, term, or condition. The consent or approval by a Party of any act by another Party requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent or similar act. No single or partial exercise of any right or remedy of a Party hereunder shall preclude any further exercise thereof of the exercise of any other or different right or remedy.

N. All notices required to be given hereunder, except as otherwise provided in this Agreement, shall be deemed effective when received by the other Party through certified mail, registered mail, personal delivery, or courier delivery. All such notices shall be addressed to the Parties as follows:

As to BIRMINGHAM:

City of Birmingham, Alabama  
Department of Transportation  
710 North 20<sup>th</sup> Street, Tenth Floor  
Birmingham, Alabama 35216  
Attn.: Colin Alexander

As to NSR:

Norfolk Southern Railway Company  
650 W Peachtree Street NW  
Atlanta, Georgia 30308

As to Trussville:

City of Trussville, Alabama  
113 Chalkville Road  
Trussville, Alabama 35173  
Attn: \_\_\_\_\_.

O. Birmingham, Trussville, and NSR each bind themselves and their respective successors and assigns to the other Parties with respect to the requirements in this Agreement, and also agree that no Party shall assign or transfer its respective interest in the Agreement without the written consent of the other Parties.

P. This Agreement is made and entered into for the sole protection and benefit of Birmingham, Trussville, and NSR and their respective successors and assigns. No other persons, firms, entities, or parties shall have any rights or standing to assert any rights under this Agreement in any manner.

- Q. Invalidation of any one or more of the provisions of this Agreement by any court of competent jurisdiction shall in no way affect any of the other provisions hereof, all of which shall remain, and is intended by the Parties to remain, in full force and effect.
- R. By executing this Agreement, the undersigned each affirms and certifies that he or she has authority to bind his or her principal thereto and that all necessary acts have been taken to duly authorize this Agreement under applicable law.
- S. This Agreement may be executed in counterparts, and if so executed, shall become effective when a counterpart has been executed and delivered by all Parties hereto. All counterparts taken together shall constitute one and the same Agreement and shall be fully enforceable as such. Delivery of counterparts via email with scanned attachment shall be effective as if originals thereof were delivered.
- T. During the performance of the contract the Parties agree as follows:
- (a) The Parties will not discriminate against any employee or applicant for employment because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, or national origin. The Parties will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, gender identity, sexual orientation, disability, familial status, or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Parties agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- (b) In the event of a Party's noncompliance with the nondiscrimination clauses of this contract, this Agreement may be canceled, terminated or suspended in whole or in part and the Parties may be declared ineligible for further municipal contracts.
- U. By signing this Agreement, in accordance with the provisions of Code of Alabama (1975) §41-16-161, and to the extent applicable and without violating controlling law or regulation,, the Parties represent and agree that they do not and will not engage in economic boycotts, as defined in Code of Alabama (1975) §41-16-160.
- V. The Parties acknowledge and agree that the City of Birmingham, as a matter of public policy, encourages minority- and women-owned business participation to the maximum extent possible. This policy includes historically under-utilized business enterprises such as architectural firms, engineering firms, investment banking firms, other professional service providers, and construction contractors as part of Birmingham's business, economic and community revitalization programs.
- W. (a) The Parties represent and warrant that they do not knowingly employ, hire for employment, or continue to employ an "unauthorized alien," as defined by the *Beason-*

*Hammon Alabama Taxpayer and Citizen Protection Act*, Act No. 2011-535 (H. B. 56), as amended from time to time (the “Act”) and that, during the performance of this Agreement, The Parties shall participate in the E-Verify program as required under the terms of the Act.

(b) Each Party represents and warrants that it shall not hire, retain or contract with any contractor to work on the Project which such Party knows is not in compliance with the Act.

(c) By signing this Agreement, the contracting parties affirm, for the duration of the Agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting Party found to be in violation of this provision shall be deemed in breach of this Agreement and shall be responsible for all damages resulting therefrom.

- X. This Agreement with attached Exhibits and Certifications constitutes the entire Agreement between the Parties.

*[Signature blocks on next page]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on their behalf.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF

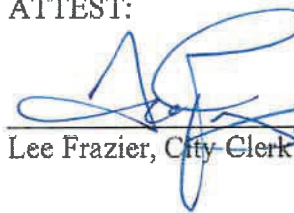
NORFOLK SOUTHERN RAILWAY COMPANY

\_\_\_\_\_  
Witness

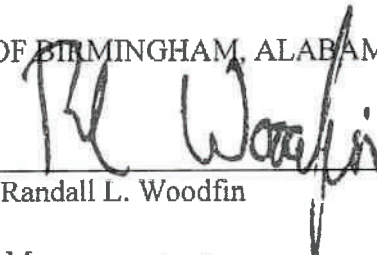
By: \_\_\_\_\_  
(Signature)

Title: \_\_\_\_\_  
DUNS No.: \_\_\_\_\_

ATTEST:

  
Lee Frazier, City Clerk 5/13/26

CITY OF BIRMINGHAM, ALABAMA

By:   
Randall L. Woodfin

Title: Mayor  
DUNS No.: 5/13/26

Approved as to Form:

  
Assistant City Attorney/Date 5/12/26

ATTEST:

CITY OF TRUSSVILLE, ALABAMA

\_\_\_\_\_  
Dan Weinrib, City Clerk

By: \_\_\_\_\_  
Buddy Choat

Title: Mayor  
DUNS No.: \_\_\_\_\_

**EXHIBIT A**  
**PROJECT DETAILS AND MAP**

**Birmingham Project Locations**

The four proposed improvements are located along approximately 2 miles of NS AGS track from the existing grade separated crossing with I-20 west to existing grade separated crossing with 1st Avenue. The Projects' locations and impacts are listed below.

- Replace at-grade crossings at Brussels Avenue with an underpass beneath the AGS and East End District rail lines tied into realigned roadways. The northern grade crossing is at 33°32'27.54"N / 86°44'7.82"W (MP 138.31); the southern grade crossing is at 33°32'21.35"N / 86°44'9.00"W (MP 794.61).
- Eliminate at-grade crossing at Antwerp Avenue and extend 5th Avenue to connect Antwerp traffic to the new tunnel servicing Brussels Avenue. 33°32'27.10"N / 86°44'17.07"W (MP 794.76) By providing alternate access, the need for this at-grade crossing can be eliminated, allowing rail operations to "park" trains along this section of track and reducing rail congestion coming into and out of Norris Yard.
- Eliminate at-grade crossings at 56th, 57th, and 59th Streets. (33°32'18.75"N / 86°44'59.74"W) (MP 795.52); (33°32'20.41"N / 86°44'55.71"W) (MP 794.42); (33°32'22.62"N / 86°44'49.02"W) (MP 795.3) By providing alternate access, the need for these at-grade crossings can be eliminated, allowing rail operations to "park" trains along this section of track and reducing rail congestion coming into and out of Norris Yard.
- Construct Pedestrian underpass near 59th Street. (33°32'23"N / 86°44'49"W) (MP 795.3) This will allow pedestrian traffic to safely cross the Norfolk Southern right-of-way at this location, maintaining the community connection after the at-grade crossing is eliminated.

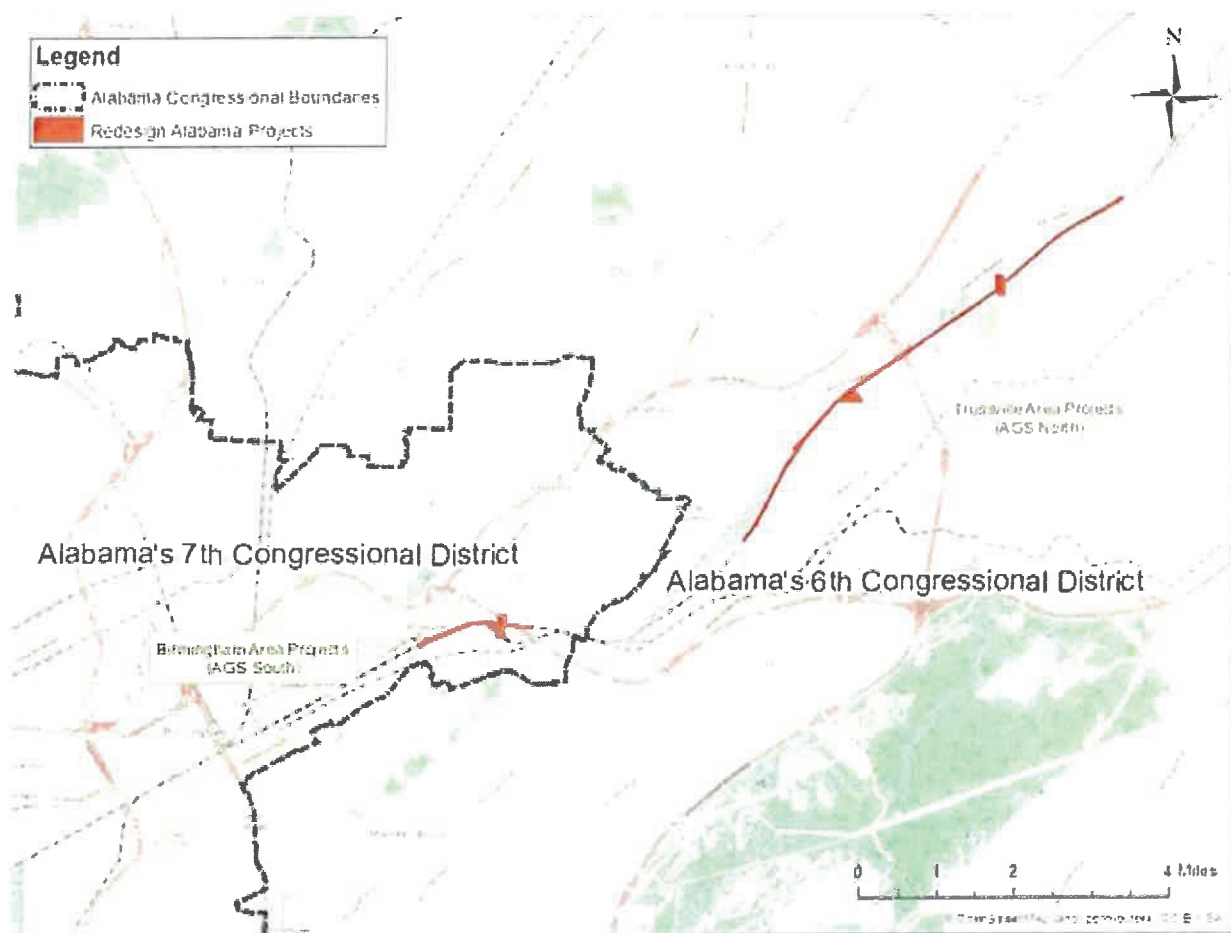
**Trussville (or AGS North) Project Locations**

The five proposed improvements are located along approximately 6 miles of NS AGS track from the Cahaba River west to the middle of Norris Yard. The projects' locations and impacts are listed below:

- Replace at-grade crossing at Mary Taylor Road with a grade separated overhead vehicular bridge. (33°36'19.30"N / 86°37'33.77"W) (MP130.1) This will eliminate traffic congestion on Mary Taylor Road resulting from train operations.
- Eliminate at-grade crossings at Peggy Lee Lane and Parrish Lane. (33°35'3.39"N / 86°39'40.16"W) (MP 132.52 and 130.95) By providing alternate access, the need for these at-grade crossings can be eliminated. Allowing rail operations to "park" trains along this section of track and reducing rail congestion coming into and out of Norris Yard.
- Extend Cahaba siding to Pape Junction. (33°33'25.04"N / 86°40'57.59"W) Constructing approximately 25,000 ft of additional track (including widening the roadbed and

extending/widening/ upgrading culverts and bridges, as necessary) will create additional rail capacity for inbound and outbound trains, eliminating the requirement to break trains into smaller lengths to enter the yard.

- Construct new control point with universal crossovers at AG132. The control point provides operational flexibility by splitting the length of the 2nd mainline into two sections, providing sufficient room to hold two trains – one north and one south of the new CP (based on the current standard 15,000 foot long trains).
- Extend AGS Outbound to the new Control Point. (33°34'49.38"N / 86°39'56.26"W) Constructing approximately 4,500 ft of additional track will create capacity for longer outbound trains without blocking at-grade crossings.



- REDESIGN Alabama's geospatial data is depicted in Table 2:

| Table 2: Geospatial Data                             |             |              |
|------------------------------------------------------|-------------|--------------|
| Crossing                                             | Latitude    | Longitude    |
| Antwerp Avenue                                       | 33.54105998 | -86.73815013 |
| 59 <sup>th</sup> Street South                        | 33.539523   | -86.74690727 |
| 56 <sup>th</sup> Street South                        | 33.53891311 | -86.74863985 |
| 55 <sup>th</sup> Place South                         | 33.53847743 | -86.74988101 |
| Brussels Avenue                                      | 33.53924849 | -86.7358055  |
| Brussels Avenue (AGS S)                              | 33.54095316 | -86.73547963 |
| Mary Taylor Road                                     | 33.60535013 | -86.62607753 |
| Peggy Lee Lane                                       | 33.59806598 | -86.63777164 |
| Parish Lane                                          | 33.58424508 | -86.66112026 |
| North End of Cahaba Siding                           | 33.6212812  | -86.60008164 |
| Pape Junction                                        | 33.55681525 | -86.68254011 |
| AGS Outbound Ext S end                               | 33.57543395 | -86.67092844 |
| AGS Outbound N end                                   | 33.59639177 | -86.6406104  |
| Possible Pedestrian Underpass (approximate location) | 33.439359   | -86.74743172 |

**EXHIBIT B**  
**FY 2022 CRISI Grant Agreement**



U.S. Department of Transportation

Federal Railroad Administration

Grant Agreement

| 1. RECIPIENT NAME AND ADDRESS<br>CITY OF BIRMINGHAM<br><br>710 20th St N RM 189<br>Birmingham, AL 35203-2216                                                                                                                                              |              | 2. AGREEMENT NUMBER:                                                                                                                                                                                                                                                                                                                                                              |                                                                                           | 3. AMENDMENT NO. |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|------------------|-------------------------|-----------------|--------------|-------------|-----------|-------------------------|---------------------|------|------|--------------------|--------------|--------------|---------------|---------------------|--------------|--------------|---------------|
|                                                                                                                                                                                                                                                           |              | 4. PROJECT PERFORMANCE PERIOD: FROM TO                                                                                                                                                                                                                                                                                                                                            |                                                                                           |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
|                                                                                                                                                                                                                                                           |              | 5. FEDERAL FUNDING PERIOD: FROM TO                                                                                                                                                                                                                                                                                                                                                |                                                                                           |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| 1A. IRS/VENDOR NO.                                                                                                                                                                                                                                        |              | 6. PRE-AWARD AUTHORITY: No 6A. PRE-AWARD DATE: N/A                                                                                                                                                                                                                                                                                                                                |                                                                                           |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| 1B. UEI: E6FCXGL5FC43 1C. DUNS.                                                                                                                                                                                                                           |              | 7. ACTION New                                                                                                                                                                                                                                                                                                                                                                     |                                                                                           |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| 8. ASSISTANCE LISTING#:                                                                                                                                                                                                                                   |              | <table><tr><th>TITLE</th><th>FEDERAL</th><th>NON-FEDERAL</th><th>TOTAL</th></tr><tr><td>10. PREVIOUS AGREEMENTS</td><td>0.00</td><td>0.00</td><td>0.00</td></tr><tr><td>11. THIS AGREEMENT</td><td>8,000,000.00</td><td>2,000,000.00</td><td>10,000,000.00</td></tr><tr><td>12. TOTAL AGREEMENT</td><td>8,000,000.00</td><td>2,000,000.00</td><td>10,000,000.00</td></tr></table> |                                                                                           |                  |                         | TITLE           | FEDERAL      | NON-FEDERAL | TOTAL     | 10. PREVIOUS AGREEMENTS | 0.00                | 0.00 | 0.00 | 11. THIS AGREEMENT | 8,000,000.00 | 2,000,000.00 | 10,000,000.00 | 12. TOTAL AGREEMENT | 8,000,000.00 | 2,000,000.00 | 10,000,000.00 |
| TITLE                                                                                                                                                                                                                                                     | FEDERAL      | NON-FEDERAL                                                                                                                                                                                                                                                                                                                                                                       | TOTAL                                                                                     |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| 10. PREVIOUS AGREEMENTS                                                                                                                                                                                                                                   | 0.00         | 0.00                                                                                                                                                                                                                                                                                                                                                                              | 0.00                                                                                      |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| 11. THIS AGREEMENT                                                                                                                                                                                                                                        | 8,000,000.00 | 2,000,000.00                                                                                                                                                                                                                                                                                                                                                                      | 10,000,000.00                                                                             |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| 12. TOTAL AGREEMENT                                                                                                                                                                                                                                       | 8,000,000.00 | 2,000,000.00                                                                                                                                                                                                                                                                                                                                                                      | 10,000,000.00                                                                             |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| 9. PROJECT TITLE<br>R.E.D.E.S.I.G.N. Alabama Reduce Extended Delays; Enhance Safety; and Invest in Growing Neighborhoods                                                                                                                                  |              |                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                           |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| 12A. OTHER FEDERAL FUNDING                                                                                                                                                                                                                                |              | 0.00                                                                                                                                                                                                                                                                                                                                                                              |                                                                                           |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| 13. INCORPORATED ATTACHMENTS<br>THIS AGREEMENT INCLUDES THE FOLLOWING ATTACHMENTS, INCORPORATED HEREIN AND MADE A PART HEREOF:<br>General Terms and Conditions, Attachment 1; Project Specific Terms and Conditions, Attachment 2; Exhibits, Attachment 3 |              |                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                           |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| 14. STATUTORY AUTHORITY FOR GRANT/ COOPERATIVE AGREEMENT<br>49 U.S.C. 22907 / Consolidated Appropriations Act, 2019, Public Law No. 116-6 (February 15, 2019)                                                                                             |              |                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                           |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| 15. REMARKS                                                                                                                                                                                                                                               |              |                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                           |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| GRANTEE ACCEPTANCE                                                                                                                                                                                                                                        |              |                                                                                                                                                                                                                                                                                                                                                                                   | AGENCY APPROVAL                                                                           |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| 16. NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL<br>Randall Woodfin<br>Mayor                                                                                                                                                                             |              |                                                                                                                                                                                                                                                                                                                                                                                   | 18. NAME AND TITLE OF AUTHORIZED FRA OFFICIAL<br>Matthew Mielke<br>Midwest Division Chief |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| 17. SIGNATURE OF AUTHORIZED GRANTEE OFFICIAL                                                                                                                                                                                                              |              | 17A. DATE                                                                                                                                                                                                                                                                                                                                                                         | 19. SIGNATURE OF AUTHORIZED FRA OFFICIAL<br>Electronically Signed                         |                  | 19A. DATE<br>07/03/2025 |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| AGENCY USE ONLY                                                                                                                                                                                                                                           |              |                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                           |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| 20. OBJECT CLASS CODE/EXPENDITURE TYPE: 41010                                                                                                                                                                                                             |              |                                                                                                                                                                                                                                                                                                                                                                                   | 21. ORG. CODE/EXPENDITURE ORG. : 9000000000                                               |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| 22. ACCOUNTING CLASSIFICATION CODES<br><table><tr><td>DOCUMENT NUMBER</td><td>FUND/PROJECT</td><td>BY</td><td>BPAC/TASK</td><td>AMOUNT</td></tr><tr><td>69A36525421200CRSAL</td><td></td><td></td><td></td><td></td></tr></table>                         |              |                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                           |                  |                         | DOCUMENT NUMBER | FUND/PROJECT | BY          | BPAC/TASK | AMOUNT                  | 69A36525421200CRSAL |      |      |                    |              |              |               |                     |              |              |               |
| DOCUMENT NUMBER                                                                                                                                                                                                                                           | FUND/PROJECT | BY                                                                                                                                                                                                                                                                                                                                                                                | BPAC/TASK                                                                                 | AMOUNT           |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |
| 69A36525421200CRSAL                                                                                                                                                                                                                                       |              |                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                           |                  |                         |                 |              |             |           |                         |                     |      |      |                    |              |              |               |                     |              |              |               |

## AWARD ATTACHMENTS

CITY OF BIRMINGHAM

69A36525421200CRSAL

- 
1. General Terms and Conditions, Attachment 1
  2. Project Specific Terms and Conditions, Attachment 2
  3. Exhibits, Attachment 3

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## Attachment 1

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# GENERAL TERMS AND CONDITIONS

Revision Date: April 23, 2025



## General Terms and Conditions

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## ATTACHMENT 1

This Grant Agreement (Agreement) is between the Federal Railroad Administration (FRA) and the Recipient identified in Attachment 2: Project-Specific Terms and Conditions. This Agreement, including the Agreement cover sheet, this Attachment 1, Attachment 2, and Exhibits A–C, constitutes the entire Agreement between FRA and the Recipient regarding the Project as defined in Attachment 2. All prior discussions and understandings concerning the scope and subject matter of this agreement are superseded by this Agreement.

This Agreement is governed by and subject to 2 CFR part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, and the U.S. Department of Transportation (USDOT) implementing regulations at 2 CFR part 1201.

## ARTICLE 1: TERMS AND CONDITIONS

### 1.1 General Terms and Conditions

This Attachment 1: General Terms and Conditions, is part of the Agreement between FRA and the Recipient. This Attachment 1 contains the standard terms and conditions governing the administration of this Agreement and the execution of the Project. The General Terms and Conditions incorporate by reference the information contained in Attachment 2 and the Exhibits to this Agreement.

### 1.2 Project-Specific Terms and Conditions

Attachment 2: Project-Specific Terms and Conditions, is part of the Agreement between FRA and the Recipient. Attachment 2 contains Project-Specific Terms and Conditions, which may include special terms and conditions.

### 1.3 Program-Specific Clauses

Article 26 of this Attachment 1 contains the applicable program-specific clauses. The Recipient will comply with the program-specific clauses below that are associated with the grant program identified in Attachment 2 of this Agreement. In the event that the Recipient's grant is not authorized under a program listed below, Article 26 does not apply.

(a) For Projects funded under the Interstate Rail Compacts program (49 U.S.C. § 22910), the Recipient will comply with the program-specific clauses in Article 26.1.

(b) For Projects funded under the Railroad Crossing Elimination program (49 U.S.C. § 22909), the Recipient will comply with the program-specific clauses in Article 26.2.

(c) For Projects funded under the Consolidated Rail Infrastructure and Safety Improvements program (49 U.S.C. § 22907), the Recipient will comply with the program-specific clauses in Article 26.3.

(d) For Projects funded under the Restoration and Enhancement program (49 U.S.C. § 22908), the Recipient will comply with the program-specific clauses in Article 26.4.



(e) For Projects funded under the Federal-State Partnership for Intercity Passenger Rail program (49 U.S.C. § 24911) and Federal-State Partnership for State of Good Repair (as authorized in Sections 11103 and 11302 of the Passenger Rail Reform and Investment Act of 2015 (Title XI of the Fixing America's Surface Transportation (FAST) Act, Pub. L. No. 114-94 (2015))), the Recipient will comply with the program-specific clauses in Article 26.5.

#### **1.4 Exhibits**

Exhibits A–C are part of the Agreement between FRA and the Recipient. The Recipient will comply with Exhibits A–C.

## **ARTICLE 2: FRA ROLE AND RESPONSIBILITIES**

### **2.1 FRA Role**

(a) FRA is responsible for funding disbursements to the Recipient under this Agreement. FRA will also conduct oversight and monitoring activities to assess Recipient progress against established performance goals and to assess compliance with terms and conditions, including the Statement of Work and other requirements of this Agreement.

(b) If this award is made as a Cooperative Agreement, FRA will have substantial programmatic involvement. Substantial involvement means that, after award, technical, administrative, or programmatic staff will assist, guide, coordinate, or otherwise participate with the Recipient in Project activities.

(c) If this award is made as a Grant, FRA will not have substantial programmatic involvement.

### **2.2 FRA Professional Staff**

FRA may provide professional staff to review work in progress, completed products, and to provide or facilitate access to technical assistance when it is available, feasible, and appropriate. FRA professional staff may include the following:

(a) Financial Analyst. The Financial Analyst will serve as the Recipient's point of contact for systems (e.g., GrantSolutions and the Delphi eInvoicing System) access and troubleshooting as well as for financial monitoring.

(b) Grant Manager. The Grant Manager will serve as the Recipient's point of contact for grant administration and will oversee compliance with the terms and conditions in this Agreement. The Grant Manager reviews financial reports, performance reports, and works with the Project Manager to facilitate effective Project delivery.

(c) Project Manager. The Project Manager will serve as the Recipient's point of contact for the technical aspects of Project delivery. The Project Manager coordinates Project deliverable review, provides technical assistance to the Recipient, and generally assesses Project progress and performance.

## ARTICLE 3: RECIPIENT ROLE

### 3.1 Representations and Acknowledgments on the Project

(a) The Recipient represents that:

- (1) all material statements of fact in the Application were accurate when the Application was submitted and now; and
- (2) the Recipient read and understands the terms and conditions in Attachment 1 and Attachment 2 of this Agreement, the applicable program-specific clauses in Article 26 of this Attachment 1, and the information and conditions in the Exhibits.

(b) The Recipient acknowledges that:

- (1) the terms and conditions impose obligations on the Recipient and that the Recipient's non-compliance with the terms and conditions may result in remedial action, including terminating the Agreement, disallowing costs incurred for the Project, requiring the Recipient to refund Federal contributions to FRA, and reporting the non-compliance in the Federal-government-wide integrity and performance system. Recipient acknowledges that the terms and conditions impose such obligations on the Recipient whether the award is made as a Cooperative Agreement, Grant Agreement, or Phased Funding Agreement.
- (2) The Recipient acknowledges that the requirements of this Agreement apply to the entire Project, including Project costs satisfied from sources other than Agreement Federal Funds.

(c) By entering into this Agreement with FRA, the Recipient agrees to comply with the terms and conditions in Attachment 1 and Attachment 2, including applicable program-specific clauses in Article 26 of this Attachment 1, Exhibits A–C, and all applicable Federal laws and regulations, including those identified in this Agreement. The Recipient will ensure compliance with all terms of this Agreement and all of its parts for all tiers of subawards and contracts under this Agreement, as appropriate. The Recipient understands that the terms and conditions of this Agreement apply regardless of whether the award is made as a Cooperative Agreement, Grant Agreement, or Phased Funding Agreement.

### 3.2 Representations on Authority and Capacity

The Recipient represents that:

- (a) it has the legal authority to receive Federal financial assistance under this Agreement;
- (b) it has the legal authority to complete the Project;
- (c) all representations and warranties made in the Federal System for Awards Management (SAM.gov) and in the Application are true and correct;

- (d) it has the capacity, including legal, technical, institutional, managerial, and financial capacity, to comply with its obligations under this Agreement and complete the Project;
- (e) the Non-Federal Funds listed in Article 6 of Attachment 2 of this Agreement are committed to fund the Project;
- (f) it has sufficient funds available to ensure that equipment and infrastructure funded under this Agreement will be operated and maintained in compliance with this Agreement and applicable Federal law;
- (g) it has sufficient funds available to ensure that operations funded under this agreement are conducted in compliance with this Agreement and applicable Federal law; and
- (h) the individual executing this agreement on behalf of the Recipient has the legal authority to enter this Agreement and make the statements and certifications in this Agreement on behalf of the Recipient.

### **3.3 FRA Reliance**

The Recipient acknowledges that:

- (a) FRA relied on statements of fact in the Application and SAM.gov to select the Project to receive this award;
- (b) FRA relied on statements of fact in the Application, SAM.gov, and this Agreement to determine that the Recipient and the Project are eligible to receive financial assistance under this Agreement;
- (c) FRA relied on statements of fact in the Application, SAM.gov, and this Agreement to determine that the Recipient has the legal authority to implement the Project; and
- (d) FRA relied on statements of fact in both the Application and this Agreement to establish the terms of this Agreement; and
- (e) FRA's selection of the Project to receive this award may have prevented awards to other eligible applicants.

### **3.4 Project Delivery**

- (a) The Recipient will implement and complete the Project to FRA's satisfaction under the terms of this Agreement.
- (b) The Recipient will ensure that the Project is financed, constructed, operated, and maintained in accordance with all applicable Federal laws, regulations, and policies.

### **3.5 Rights and Powers Affecting the Project**

- (a) The Recipient will not take or permit any action that deprives it of any rights or powers necessary to the Recipient's performance under this Agreement without written approval of FRA.



(b) The Recipient will act promptly, in a manner acceptable to FRA, to acquire, extinguish, or modify any outstanding rights or claims of right of others that would interfere with the Recipient's performance under this Agreement.

### **3.6 Notification of Changes to Key Personnel**

The Recipient will notify the FRA Grant Manager in writing within 30 days of any change in key personnel who are identified in the Application, which may require an amendment to this Agreement.

## **ARTICLE 4: AWARD AMOUNT, OBLIGATION, AND TIME PERIODS**

### **4.1 Federal Award Amount**

Under this Agreement, FRA awards a Grant to the Recipient in the amount that is the Agreement Federal Funds in Article 6.1 of Attachment 2 of this Agreement.

### **4.2 Federal Obligations**

This Agreement obligates for the budget period the amount that is the Agreement Federal Funds in Article 6.1 of Attachment 2 of this Agreement.

### **4.3 Maximum Funding Amount**

This Agreement funds the Project at the lesser amount of the Agreement Federal Funds in Article 6.1 of Attachment 2 of this Agreement, or the FRA maximum contribution percentage of the total Project cost identified in Article 6.5 of Attachment 2 of this Agreement.

### **4.4 Budget Period**

The budget period for this award begins on the date of this Agreement and ends on the end date that is listed in Section 5 on the Agreement cover sheet. In this Agreement, "budget period" is used as defined at 2 CFR § 200.1.

### **4.5 Period of Performance**

The Period of Performance for this award is listed in Section 4 on the Agreement cover sheet. In this Agreement, "Period of Performance" is used as defined at 2 CFR § 200.1.

## **ARTICLE 5: STATEMENT OF WORK, SCHEDULE, AND BUDGET CHANGES**

### **5.1 Notification Requirement**

The Recipient will notify the FRA Grant Manager and Project Manager by electronic correspondence within 30 days of any change in circumstances or commitments that adversely affect the Recipient's plan to complete the Project, including change in authority. In that notification, the Recipient will describe the change and what actions the Recipient has taken or plans to take to ensure completion of the Project. This notification requirement under this Section 5.1 is separate from any requirements under this Article 5 that the Recipient request an amendment to this Agreement.



## **5.2 Scope and Statement of Work Changes**

If the Project's activities differ from the activities described in Article 4 of Attachment 2 of this Agreement, then the Recipient will notify FRA in writing of the change, which may require an amendment to this Agreement.

## **5.3 Schedule Changes**

If one or more of the following conditions are satisfied, then the Recipient will request an amendment to this Agreement to update the Estimated Project Schedule in Section 5.2 of Attachment 2 of this Agreement:

- (a) a completion date for the Project or a component of the Project is listed in the Estimated Project Schedule in Section 5.2 of Attachment 2 of this Agreement and the Recipient's estimate for that milestone changes to a date that is more than six months after the date listed;
- (b) a schedule change would require the budget period to continue after the end of the budget period defined in Section 4.4; or
- (c) a schedule change would require the Period of Performance to continue after the end of the Period of Performance defined in Section 4.5. The Recipient must submit requests to extend the Period of Performance not later than 90 days before the end of the Period of Performance.

For other schedule changes, the Recipient will notify the Grant Manager in writing.

## **5.4 Budget Changes**

- (a) The Recipient acknowledges that if the cost of completing the Project increases:
  - (1) that increase does not affect the Recipient's obligation under this Agreement to complete the Project;
  - (2) any additional funds the Recipient contributes to complete the Project are subject to the requirements of this Agreement in the same manner as the Non-Federal Funds identified in Article 6.5 of Attachment 2 of this Agreement; and
  - (3) FRA will not increase the amount of this award to address any funding shortfall.
- (b) The Recipient will notify FRA in writing if the total Project cost, as described in Table 6-A of Attachment 2 of this Agreement, amount increases, which may result in an amendment to this Agreement.
- (c) The Recipient will notify FRA in writing if the Non-Federal Funds amount decreases, which may result in an amendment to this Agreement.
- (d) For all other budget changes, the Recipient will follow the applicable procedures and document the changes in writing.



## 5.5 Project Cost Savings

(a) If there are Project Cost Savings, then the Recipient may notify FRA in writing of its intent to include in the Project and complete with the Project Cost Savings the additional activities within the scope of this award that are specified in the Additional Task(s) in Article 4 of Attachment 2 of this Agreement. The Recipient will complete the Additional Task(s) after FRA provides a written approval. An amendment to this Agreement is not required to proceed with the Additional Task(s).

(b) If there are Project Cost Savings, and there are not Additional Task(s) identified in Article 4 of Attachment 2 of this Agreement, then the Recipient may propose a new task that is within the scope of this award and request an amendment to add the new task to this Agreement and complete it with Project Cost Savings.

(c) In this Agreement, “**Project Cost Savings**” means the difference between the actual costs to complete the Project and the estimated total Project cost listed in Section 6.5 of Attachment 2 of this Agreement, if after the Recipient completes the tasks identified in Article 4 of Attachment 2 of this Agreement to FRA’s satisfaction, the actual Project costs are less than the estimated total Project costs. There are no Project Cost Savings prior to completion of the Project or if the actual costs to complete the Project are equal to or greater than the total Project cost listed in Section 6.5 of Attachment 2 of this Agreement.

(d) If there are Project Cost Savings and either the Recipient does not make a proposal or FRA does not accept the Recipient’s proposal under (a) of this Section 5.5, then:

(1) The Recipient will provide written notice to FRA and reduce the Federal Share by the Project Cost Savings, which may result in an amendment to this Agreement; and

(2) If the reduced Federal Share reduces this award and the Recipient received reimbursed costs exceeding the appropriate amount under the reduced award, the Recipient will refund the difference between the reimbursed costs and the reduced award.

(e) In this Agreement, “Federal Share” means the sum of the Agreement Federal Funds and Other Federal Funds amounts that are identified in the Approved Project Budget in Section 6.5 of Attachment 2 of this Agreement.

(f) The Recipient acknowledges that amounts that are required to be refunded under this Section constitute a debt to the Federal Government that FRA may collect under 2 CFR § 200.346 and the Federal Claims Collection Standards (31 CFR parts 900–999).

## 5.6 FRA Acceptance of Changes

FRA may accept or reject changes requested under this Article 5, and in doing so may elect to consider only the interests of the grant program and FRA. The Recipient acknowledges that any request under this Article 5 does not amend, modify, or supplement this Agreement unless FRA



accepts the request and the parties amend this Agreement under Section 15.1 of this Attachment 1.

## ARTICLE 6: GENERAL REPORTING TERMS

### 6.1 Alternative Reporting Methods

FRA may establish processes for the Recipient to submit reports required by this Agreement, including electronic submission processes. If the Recipient is notified of those processes in writing, the Recipient will use the processes required by FRA.

### 6.2 Paperwork Reduction Act Notice

Under 5 CFR § 1320.6, the Recipient is not required to respond to a collection of information that does not display a currently valid control number issued by the Office of Management and Budget (OMB). Notwithstanding any other term of this Agreement, the due date for any information collections required under this Agreement, including the reporting requirements in Articles 7 and 8, is the later of (1) the due date stated with the requirement and (2) the 30th day after OMB approves that information collection.

## ARTICLE 7: PROGRESS AND FINANCIAL REPORTING

### 7.1 Quarterly Project Progress Reports and Recertifications

(a) On or before the 30th day of the first month of each quarter and until the end of the Period of Performance, the Recipient will submit to FRA through GrantSolutions a complete FRA Form 34<sup>1</sup> Quarterly Project Progress Report and Recertification that contains, for the previous quarter:

- (1) a certification that the Recipient is in compliance with 2 CFR § 200.303 (Internal Controls) and 2 CFR part 200, Subpart F (Audit Requirements);
- (2) the certification required under 2 CFR § 200.415(a); and
- (3) a certification that the Recipient is complying with any environmental mitigation commitments and Section 106 compliance obligations.

If the date of this Agreement is in the final month of a quarter, then the Recipient will submit the first Quarterly Project Progress Report and Recertification in the quarter that begins after the date of this Agreement.

(b) On or before the 30th day of the first month of each quarter and until the end of the Period of Performance, the Recipient will submit to FRA through GrantSolutions a Federal Financial Report (SF-425) covering the previous quarter.

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<sup>1</sup> FRA Form 34 is available at <https://railroads.dot.gov/grant-administration/reporting-requirements/fra-reports>



## **7.2 Final Progress Reports and Financial Information**

No later than 120 days after the end of the Period of Performance, the Recipient will submit:

- (a) a final Quarterly Project Progress Report and Recertification in the format and with the content described in Section 7.1(a) of this Attachment 1 for each Quarterly Project Progress Report and Recertification;
- (b) a final SF-425 through GrantSolutions;
- (c) a Final Performance Report FRA Form 33 as provided by FRA<sup>2</sup>; and
- (d) any other information required under FRA's award closeout procedures.

## **7.3 Real Property Reporting**

The Recipient will comply with the reporting obligations in 2 CFR § 200.330, as directed by FRA.

# **ARTICLE 8: PERFORMANCE MEASUREMENT AND REPORTING**

## **8.1 Baseline Performance Measurement**

Within one year before the start of work on the Project, the Recipient will collect baseline data for each performance measure that is identified in Article 7 of Attachment 2 of this Agreement. Within six months of the start of the Period of Performance, the Recipient will submit to FRA a Baseline Performance Measurement Report that describes the data collected, the dates when the data were collected, the data sources, assumptions, variability, and estimated levels of precision for each performance measure. The Recipient will also provide FRA access to the data collected in machine-readable format.

## **8.2 Post-Project Performance Measurement**

For each performance measure that is listed in Article 7 of Attachment 2 of this Agreement, the Recipient will collect data and submit to FRA a Post-Project Performance Measurement Report that describes the data collected, the dates when the data were collected, the data sources, assumptions, variability, and estimated levels of precision for each performance measure, at the frequency and for the duration identified in Article 7 of Attachment 2 of this Agreement. The Recipient will also provide FRA access to the data collected in machine-readable format. If an external factor affects a performance measure, the Recipient will identify that external factor in the Post-Project Performance Measurement Report and discuss the external factor's influence on the performance measure. In the Post-Project Performance Report, the Recipient will compare the actual project performance against the pre-project (baseline) performance and expected post-project performance as described in Table 7-A of Attachment 2 of this Agreement.

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<sup>2</sup>FRA Form 33 is available at <https://railroads.dot.gov/grant-administration/reporting-requirements/fra-reports>



### **8.3 Project Outcomes Report**

Where indicated in Article 7 of Attachment 2 of this Agreement, the Recipient will submit to FRA, not later than January 31<sup>st</sup> of the year that follows the final year during which data were collected, a Project Outcomes Report that contains:

- (a) an analysis of the impacts of the Project, including a comparison of the baseline performance measurement data collected under Section 8.1 of this Attachment 1 with the post-project performance measurement data that the Recipient reported in the final Post-Project Performance Measurement Report required under Section 8.2 of this Attachment 1;
- (b) for each performance measure that is identified in Article 7 of Attachment 2 of this Agreement, an analysis of the accuracy of the projected outcome; and
- (c) all data collected under Sections 8.1 and 8.2 of this Attachment 1;
- (d) additional information as directed.

### **8.4 General Performance Measurement Requirements**

The Recipient will ensure that all data collection for each performance measure identified in Article 7 of Attachment 2 of this Agreement is completed in a manner consistent with the description, location, and other attributes associated with that performance measure.

### **8.5 Outcome Measurement and Reporting Survival**

The data collection and reporting requirements in Article 8 of this Attachment 1 survive the termination of this Agreement. FRA may consider the Recipient's compliance with this requirement after closeout of the grant in its evaluation of future applications for Federal financial assistance.

## **ARTICLE 9: NONCOMPLIANCE AND REMEDIES**

### **9.1 Noncompliance Determinations**

(a) Notice of Proposed Determination. If FRA determines that the Recipient may have failed to comply with the United States Constitution, Federal law, or the terms and conditions of this Agreement, FRA will notify the Recipient of a proposed determination of noncompliance through a written notice that:

- (1) explains the noncompliance;
- (2) describes a proposed remedy that is consistent with Section 9.2 of this Attachment 1;
- (3) describes the process and form in which the Recipient may respond to the notice that is consistent with Section 9.1(b) of this Attachment 1; and



(4) if applicable, provides the Recipient an opportunity to cure the noncompliance or take corrective action.

(b) Response to Notice of Proposed Determination. The Recipient may, not later than 7 days after receiving the notice of proposed determination of noncompliance, respond to that notice in the form and through the process described in that notice. In its response, the Recipient may:

- (1) accept the proposed remedy;
- (2) acknowledge the noncompliance, but propose an alternative remedy;
- (3) acknowledge the noncompliance and agree to cure or take corrective action;  
or
- (4) dispute the noncompliance.

To dispute the noncompliance, the Recipient must include in its response sufficient documentation or other information supporting the Recipient's compliance.

(c) Notice of Final Determination. After considering the Recipient's response or failure to timely respond under Section 9.1(b) of this Attachment 1, FRA will make a final determination. To make a final determination, FRA must provide a written notice to the Recipient that:

- (1) states what the final determination is (e.g., noncompliance or compliance);
- (2) states the basis for the final determination; and
- (3) describes the remedy that FRA is imposing, if applicable, or if FRA is not imposing a remedy, describes the resolution to the proposed determination of noncompliance, including whether the Recipient has cured or corrected the noncompliance.

(d) If FRA determines the noncompliance is one that cannot be addressed while work on the Project is ongoing, in the notice of proposed determination or in the notice of final determination, FRA will direct the Recipient to stop work. The Recipient will stop work and will direct any Subrecipients or contractors to stop work immediately upon receipt of a notice to stop work from FRA.

(e) FRA may consider the public interest in making a determination of noncompliance and imposing a remedy.

## 9.2 Remedies

(a) If FRA makes a final determination of noncompliance under Section 9.1(c) of this Attachment 1, FRA may impose a remedy, including:

- (1) additional conditions on the award;
- (2) requiring the Recipient to prepare and implement a corrective action plan;



- (3) directing the Recipient to stop work;
- (4) any remedy permitted under 2 CFR §§ 200.339–200.340, including withholding of payments ; disallowance of previously reimbursed costs, requiring refunds from the Recipient to FRA; suspension or termination of the award; or suspension and disbarment under 2 CFR part 180; or
- (5) any other remedy legally available.

(b) The Recipient acknowledges that any amounts FRA requires the Recipient to refund to FRA under this Section 9.2 constitute a debt to the Federal Government that FRA may collect under 2 CFR § 200.346 and the Federal Claims Collection Standards (31 CFR parts 900–999).

(c) Other Remedies. The termination authority under Article 10 of this Attachment 1 supplements and does not limit FRA’s remedial authority under this Article 9 or 2 CFR part 200, including 2 CFR §§ 200.339-200.240. FRA reserves the right to seek any appropriate remedy or otherwise enforce the terms and conditions of this Agreement as authorized by law.

### **9.3 Other Oversight Entities**

Nothing in Article 9 of this Attachment 1 limits any party’s authority to report activity under this agreement to the United States Department of Transportation Inspector General or other appropriate oversight entities.

## **ARTICLE 10: AGREEMENT SUSPENSION AND TERMINATION**

### **10.1 Suspension of Award Activities**

(a) If FRA determines that the remedy for noncompliance imposed under Article 9 of this Agreement does not achieve the desired result or is unlikely to improve compliance or performance, FRA may suspend activities under this Agreement pending corrective action by the Recipient or termination.

(b) If FRA suspends activities under this Agreement, FRA will notify the Recipient in writing of the following, which may be included in the determinations of non-compliance under Section 9.1 of this Attachment 1:

- (1) what project activities, if any, will take place during the period of suspension;
- (2) what costs FRA will reimburse if the suspension is lifted and the award resumed;
- (3) what corrective actions must occur during the suspension; and
- (4) FRA’s intent to terminate the award under this Article 10 if the Recipient does not meet the conditions of the remedial action.

(c) The duration of the temporary suspension of activities under the Agreement should be commensurate with the corrective action needed, but should not exceed 120 days at the outset. If the Recipient is not making sufficient progress in correcting the noncompliance, FRA must consider both financial and programmatic requirements in determining the appropriate extension to avoid the need for termination.

## **10.2 FRA Termination**

(a) FRA may terminate this Agreement and all its obligations under this Agreement if any of the following occurs:

- (1) the Recipient fails to obtain or contribute the required Non-Federal Funds, or alternatives approved by FRA, as provided in this agreement and consistent with Article 6 of Attachment 2 of this Agreement;
- (2) the Recipient fails to meet a milestone by six months after the completion date listed in Article 5 of Attachment 2 of this Agreement and the Recipient fails to request an amendment to this Agreement pursuant to Section 5.3 of this Attachment 1;
- (3) the Recipient fails to comply with the terms and conditions of this Agreement;
- (4) there are changes to the Project that FRA determines are inconsistent with FRA's basis for selecting the Project to receive the award; or
- (5) FRA determines that termination of this Agreement is in the public interest.

(b) The Recipient may request that FRA terminate the Agreement, which may result in FRA determining noncompliance and imposing remedies pursuant to Article 9 of this Attachment 1.

## **10.3 Closeout Termination**

- (a) This Agreement terminates on Project Closeout.
- (b) In this Agreement, "Project Closeout" means the date that FRA notifies the Recipient that the award is closed out. Under 2 CFR § 200.344, Project Closeout should occur no later than one year after the end of the Period of Performance.

## **10.4 Post-Termination Adjustments**

The Recipient acknowledges that under 2 CFR §§ 200.345–200.346, termination of this Agreement does not extinguish FRA's authority to disallow costs, including costs that FRA reimbursed before termination, and recover funds from the Recipient.

## **10.5 Non-Terminating Events**

- (a) The end of the budget period described under Section 4.4 of this Attachment 1 does not terminate this Agreement or the Recipient's obligations under this Agreement.

- (b) The end of the Period of Performance described under Section 4.5 of this Attachment 1 does not terminate this Agreement or the Recipient's obligations under this Agreement.

## ARTICLE 11: MONITORING, FINANCIAL MANAGEMENT, CONTROLS, AND RECORDS

### 11.1 Recipient Monitoring and Record Retention

- (a) The Recipient will monitor activities under this award, including activities under subawards and contracts, to ensure:
- (1) that those activities comply with this agreement; and
  - (2) that funds provided under this award are not expended on costs that are not allowable under this award or not allocable to this award.
- (b) If the Recipient makes a subaward under this award, the Recipient will monitor the activities of the Subrecipient in compliance with 2 CFR §200.332(e).
- (c) The Recipient will retain and provide access to records relevant to the award during the course of the Project and for three years after closeout or longer, as required under 2 CFR § 200.334.
- (d) The Recipient will adhere to the recording and recordkeeping requirements set forth in 2 CFR §§ 200.334–200.338. Project Closeout does not alter these requirements.

### 11.2 Financial Records and Audits

- (a) The Recipient will keep all Project accounts and records that fully disclose the amount and disposition by the Recipient of the award funds, the total cost of the Project, and the amount or nature of that portion of the cost of the Project supplied by other sources, and any other financial records related to the Project.
- (b) The Recipient will keep accounts and records described under Section 11.2(a) of this Attachment 1 in accordance with a financial management system that meets the requirements of 2 CFR §§ 200.302–200.307 and 2 CFR part 200, subpart F and will facilitate an effective audit in accordance with 31 U.S.C. §§ 7501–7506.
- (c) The Recipient will separately identify expenditures under the award in financial records required for audits under 31 U.S.C. §§ 7501–7506. Specifically, the Recipient will:
- (1) list expenditures separately on the schedule of expenditures of Federal awards required under 2 CFR part 200, subpart F, including the fiscal year in the format "FY 202X" in the program name; and
  - (2) list expenditures on a separate row under Part II, Item 1 (Federal Awards Expended During Fiscal Period) of Form SF-SAC, including "FY 202X" in Column C (Additional Award Identification).

(d) If the Recipient expends \$1,000,000 or more in Federal awards during the Recipient's fiscal year, a single or program audit will be conducted for that year, consistent with 2 CFR §§ 200.501(a) and 200.512(c).

### **11.3 Internal Controls**

The Recipient will establish and maintain internal controls as required under 2 CFR § 200.303.

### **11.4 FRA Record Access**

FRA may access Recipient records related to this award under 2 CFR § 200.337.

### **11.5 Site Visits**

FRA may conduct site visits to review Project activities, accomplishments, and management control systems and to provide technical assistance to the Recipient. The Recipient will provide or ensure reasonable, safe, and convenient access to FRA for any such site visit. FRA will conduct all site visits in such a manner as will not unduly delay work conducted by the Recipient, Subrecipient, or contractor.

## **ARTICLE 12: CONTRACTING AND SUBAWARDING**

### **12.1 Buy America**

(a) For infrastructure projects, steel, iron, manufactured goods, and construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act (Buy American Act), Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021) and 2 CFR part 184, as implemented by OMB, USDOT, and FRA. The Recipient acknowledges that this Agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

(b) For all other projects, the Recipient's acquisition of steel, iron, and manufactured goods with funding provided through this Agreement is subject to the requirements set forth in the Buy American Act, 41 U.S.C. §§ 8301-8305. The Recipient also represents that it has never been convicted of violating the Buy American Act nor will it make funding received under this Agreement available to any person or entity who has been convicted of violating the Buy American Act.

(c) Under this Section, "infrastructure project" has the definition provided in 2 CFR § 184.3.

(d) Under 2 CFR § 200.322, the Recipient should, to the greatest extent practicable and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The Recipient shall include the requirements of 2 CFR § 200.322 in all subawards, contracts, and purchase orders under this award.



## **12.2 Small and Disadvantaged Business Requirements**

The Recipient will expend all funds under this award in compliance with the requirements at 2 CFR § 200.321, including any amendments thereto.

## **12.3 Engineering and Design Services [Reserved]**

## **12.4 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment**

The Recipient acknowledges that Section 889 of Pub. L. No. 115-232 and 2 CFR § 200.216 prohibit the Recipient and all Subrecipients from procuring or obtaining certain telecommunications and video surveillance equipment or services under this award.

## **12.5 Pass-Through Entity Responsibilities**

(a) If the Recipient makes a subaward under this award, the Recipient will comply with the requirements for pass-through entities under 2 CFR parts 200 and 1201, including 2 CFR §§ 200.331–200.333, regardless of whether the Recipient is also a Pass-Through Entity as defined in 2 CFR § 200.1.

(b) The Recipient will report any subaward obligation of \$30,000 or more in Federal funds in USASpending.gov consistent with the Federal Funding Accountability and Transparency Act, Pub. L. 109-282.

(c) The Recipient is accountable for performance under this award, the appropriate expenditure of funds, and other requirements under this Agreement. The Recipient is responsible for any non-compliance under the award and for compliance with any remedies imposed.

## **12.6 Local Hiring Preference for Construction Jobs**

Under Section 25019 of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, div. B, tit. V (2021), a Recipient or Subrecipient may implement a local or other geographical or economic hiring preference relating to the use of labor for construction of a project funded by this grant if funded under title 49 or 23 United States Code, including prehire agreements, subject to any applicable State and local laws, policies, and procedures. The use of such a local or other geographical or economic hiring preference in any bid for a contract for the construction of a project funded by this grant shall not be considered to unduly limit competition. Project labor agreements should be consistent with the definition and standards outlined in Executive Order 13502. For additional information, see <https://www.transportation.gov/sites/dot.gov/files/2023-05/Creating-Local-Construction-Workforce.pdf>.

## **12.7 Procurement**

The Recipient may acquire property, goods, or services in connection with the Project. If the Recipient is a State or Indian Tribe, then it will follow the same policies and procedures it uses for procurements with non-Federal funds in compliance with 2 CFR § 200.317. A Subrecipient of a State will follow the policies and procedures allowed by that State when procuring property and services under this award consistent with 2 CFR § 1201.317, notwithstanding 2 CFR §



200.317. An entity that is not a State or Indian Tribe, or Subrecipient of a State or Indian Tribe, will comply with 2 CFR §§ 200.318–200.327, and applicable supplementary USDOT or FRA directives and regulations. The Recipient will provide technical specifications and requirements to FRA for review upon request.

## ARTICLE 13: COSTS, PAYMENTS, AND UNEXPENDED FUNDS

### **13.1 Limitation of Federal Award Amount**

Under this award, FRA will not provide funding in an amount greater than the Agreement Federal Funds. The Recipient acknowledges that FRA is not liable for payments exceeding that amount, and the Recipient will not request reimbursement of costs exceeding that amount.

### **13.2 Project Costs**

This award is subject to the cost principles at 2 CFR part 200, subpart E, including provisions on determining allocable costs and determining allowable costs.

### **13.3 Timing of Project Costs**

(a) The Recipient will not charge to this award costs that are incurred after the budget period.

(b) The Recipient will not charge to this award costs that were incurred before the date of this Agreement unless those costs are identified as approved pre-award costs in Section 6.6 of Attachment 2 of this Agreement and would have been allowable if incurred during the budget period. This limitation applies to pre-award costs under 2 CFR § 200.458. This agreement hereby terminates and supersedes any previous FRA approval for the Recipient to incur costs under this award for the Project. Section 6.6 of Attachment 2 of this Agreement is the exclusive FRA approval of costs incurred before the date of this Agreement.

(c) The Recipient may request approval of pre-award costs in a written request that demonstrates the purpose and amount of the costs, compliance with 2 CFR § 200.458, and whether such costs would otherwise serve as Non-Federal Funds.

### **13.4 Recipient Recovery of Federal Funds**

The Recipient will make all reasonable efforts, including initiating litigation, if necessary, to recover Federal funds if FRA determines, after consultation with the Recipient, that those funds have been spent fraudulently, wastefully, or in violation of Federal laws, or misused in any manner. The Recipient will not enter a settlement or other final position, in court or otherwise, involving the recovery of funds under the award unless approved in advance in writing by FRA.

### **13.5 Unexpended Agreement Federal Funds**

Any Agreement Federal Funds that are obligated but not expended on allocable, allowable costs remain the property of the United States.



### **13.6 Interest Earned**

Interest earned on advances of Agreement Federal Funds is not program income.

### **13.7 Timing of Payments to the Recipient**

- (a) Reimbursement is the payment method, unless otherwise approved by FRA.
- (b) The Recipient will not request reimbursement of a cost before the Recipient has entered into an obligation for that cost.

### **13.8 Payment Method**

- (a) The Recipient will use the DELPHI e-Invoicing System (<https://www.dot.gov/cfo/delphi-einvoicing-system.html>) to request reimbursement under this award. FRA will provide access to that system upon request by the Recipient.
- (b) FRA may deny a payment request that is not submitted using the method identified in this Section.

### **13.9 Information Supporting Expenditures**

- (a) When requesting reimbursement of costs incurred or credit for cost share incurred, the Recipient will electronically submit the SF 270 (Request for Advance or Reimbursement) and will submit supporting cost detail to document clearly all costs incurred. As supporting cost detail, the Recipient will include a detailed breakout of all costs incurred and classify all costs by task and by Agreement Federal Funds and Agreement Non-Federal Funds.
- (b) Unless FRA and the Recipient agree otherwise in writing, the Recipient will ensure that the proportion of expenditure of Agreement Federal Funds to Agreement Non-Federal Funds is not more than the maximum percent of total Project cost FRA will contribute identified in Section 6.5 of Attachment 2 of this Agreement. The Recipient will ensure the proportional expenditure of funds is reflected in the detailed breakout of costs supporting the SF 270.
- (c) If the Recipient submits a request for reimbursement that FRA determines does not include or is not supported by sufficient detail, FRA may deny the request or withhold processing the request until the Recipient provides sufficient detail.

### **13.10 Reimbursement Request Timing Frequency**

The Recipient will request reimbursement as needed to maintain cash flow sufficient to timely complete the Project. The Recipient will not submit any single payment request exceeding \$99,999,999.99. The Recipient will not submit a payment request exceeding \$50,000,000.00 unless the Recipient notifies FRA six days before submitting the request.

### **13.11 Program Income**

The Recipient is encouraged to earn income to defray Project costs, where appropriate, and will work with FRA to determine how income may be applied to the grant, in accordance with 2 CFR



§ 200.307 and 2 CFR § 1201.80. Program income not deducted from total allowable costs may be used only for the purposes and under the terms and conditions established in this Agreement. The Recipient will maintain records of all program income.

## ARTICLE 14: PROPERTY AND EQUIPMENT

### 14.1 General Requirements

The Recipient will comply with the property standards of 2 CFR §§ 200.310–200.316 and will ensure compliance with these standards for all tiers of subawards and contracts under this award.

### 14.2 Relocation and Real Property Acquisition

The Recipient will comply with the land acquisition policies and relocation requirements in 42 U.S.C. § 4601 et seq. and 49 CFR part 24, subparts A–F, as applicable. At a minimum, under this section, the Recipient will:

- (a) comply with the land acquisition policies in 49 CFR part 24, subpart B and will pay or reimburse property owners for necessary expenses as specified in that subpart;
- (b) provide a relocation assistance program offering the services described in 49 CFR part 24, subpart C and provide reasonable relocation payments and assistance to displaced persons as required in 49 CFR part 24, subparts D–E; and
- (c) make available to displaced persons comparable replacement dwellings in accordance with 49 CFR part 24.
- (d) provide to FRA a real estate acquisition and management plan prior to beginning real property acquisition if the Project is designated a Major Project in Article 1 of Attachment 2 of this Agreement, or if the total Project cost in Section 6.5 of Attachment 2 of this Agreement is greater than \$300 million and the Project is also receiving financial assistance from the Federal Transit Administration (FTA).

### 14.3 Use for Originally Authorized Purpose

The Recipient will ensure that property and equipment funded under this Agreement is used for the originally authorized purpose. If necessary to satisfy this obligation, the Recipient will enter into appropriate arrangements with the entity or entities using, or with the owner of right-of-way used by, the property and/or equipment funded under this Agreement.

### 14.4 Maintenance

The Recipient will ensure that any property, improvements to property, and any equipment funded under this Agreement are maintained in good working order and in accordance with FRA regulations, guidelines, and directives.



#### **14.5 Real Property Disposition**

In accordance with 2 CFR § 200.311, when real property acquired or improved under this award is no longer used for its originally intended purpose, the Recipient will request disposition instructions from FRA.

#### **14.6 Equipment Disposition**

(a) In accordance with 2 CFR §§ 200.313 and 1201.313, when equipment acquired under this award is no longer needed for the Project:

(1) if the entity that acquired the equipment is a State or a Subrecipient of a State, that entity will dispose of that equipment in accordance with State laws and procedures;

(2) if the entity that acquired the equipment is an Indian Tribe, the Indian Tribe shall dispose of that equipment in accordance with tribal laws and procedures. If such laws and procedures do not exist, Indian Tribes must follow the guidance in 2 CFR § 200.313; and

(3) if the entity that acquired the equipment is neither a State nor an Indian Tribe, that entity will request disposition instructions from FRA. In accordance with 2 CFR § 200.313(f), FRA may permit the Recipient or Subrecipient to retain equipment.

(b) In accordance with 2 CFR §200.443(d), the distribution of the proceeds from the disposition of equipment must be made in accordance with 2 CFR §§ 200.313–200.316 and 2 CFR § 1201.313.

#### **14.7 Recordkeeping**

The Recipient will keep records regarding the operation and maintenance of property, improvements to property, equipment, and supplies funded under this Agreement and will provide them to FRA upon request.

#### **14.8 Encumbrance**

The Recipient will not create an obligation, such as a transfer of title, lease, lien, mortgage, or encumbrance, that would dispose of or encumber the Recipient's title or other interest in property, improvements to property, equipment or supplies funded under this Agreement without prior written approval from FRA.

The Recipient will not take any action that would adversely affect FRA's interest or impair the Recipient's continuing control over the use of the property, improvements to property, equipment, or supplies funded under the Agreement without prior written approval from FRA.



## ARTICLE 15: AMENDMENTS

### 15.1 Bilateral Amendments

The parties may amend, modify, or supplement this Agreement by mutual agreement in writing signed by FRA and the Recipient. Either party may request to amend, modify, or supplement this Agreement by written notice to the other party.

### 15.2 FRA Unilateral Amendments

(a) FRA may unilaterally amend this Agreement for the following reasons:

- (1) to comply with Federal law;
- (2) at closeout or in anticipation of closeout; and
- (3) other non-substantive changes, such as to correct typographical errors, as deemed appropriate by FRA.

(b) To unilaterally amend this Agreement under Section 15.3 of this Attachment 1, FRA will provide a written notice to the Recipient that includes the amendment and the date that the amendment is effective.

(c) Except at closeout or in anticipation of closeout, FRA may not unilaterally amend the Statement of Work, this Agreement's monetary amount, the delivery schedule, the Period of Performance, or other terms or conditions of this Agreement.

### 15.3 Other Amendments

The parties will not amend, modify, or supplement this Agreement except as permitted under Sections 15.1, 15.2, or 15.3 of this Attachment 1. If an amendment, modification, or supplement is not permitted under Section 15.1, 15.2, or 15.3 of this Attachment 1, it is void.

## ARTICLE 16: [RESERVED]

## ARTICLE 17: [RESERVED]

## ARTICLE 18: LABOR AND WORK

### 18.1 Labor and Work

The Recipient will document its consideration of job quality and labor standards related to the Project in Article 9 of Attachment 2 of this Agreement.

## ARTICLE 19: CRITICAL INFRASTRUCTURE SECURITY AND RESILIENCE

### 19.1 Critical Infrastructure Security and Resilience

(a) Consistent with the National Security Presidential Memorandum on Improving Cybersecurity for Critical Infrastructure Control Systems (July 28, 2021) and the National Security Memorandum on Critical Infrastructure Security and Resilience (April 30, 2024), the Recipient will consider physical and cyber security and resilience in planning, design, and oversight of the Project.

(b) If the Security Risk Designation in Section 1.3 of Attachment 2 of this Agreement is “Elevated,” then not later than two years after the date of this Agreement the Recipient will submit to FRA a report that:

- (1) identifies a cybersecurity point of contact for the transportation infrastructure being improved in the Project;
- (2) summarizes or contains a cybersecurity incident reporting plan for the transportation infrastructure being improved in the Project;
- (3) summarizes or contains a cybersecurity incident response plan for the transportation infrastructure being improved in the Project;
- (4) documents the results of a self-assessment of the Recipient’s cybersecurity posture and capabilities; and
- (5) describes any additional actions that the Recipient has taken to consider or address cybersecurity risk of the transportation infrastructure being improved in the Project.

## ARTICLE 20: FEDERAL FINANCIAL ASSISTANCE, ADMINISTRATIVE, AND NATIONAL POLICY REQUIREMENTS

### 20.1 Uniform Administrative Requirements for Federal Awards

The Recipient will comply, and will ensure that other entities receiving funding under this agreement will comply, with the obligations on non-Federal entities under 2 CFR parts 200 and 1201, regardless of whether the Recipient or other entity receiving funding under this agreement is a Non-Federal entity as defined in 2 CFR § 200.1, except that subpart F of part 200 does not apply if the Recipient or Subrecipient is a for-profit entity.

### 20.2 Federal Law and Public Policy Requirements

(a) The Recipient will ensure that Federal funding is expended in full accordance with the United States Constitution, Federal law, and statutory and public policy requirements: including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination and the Recipient will cooperate with Federal officials in the enforcement of Federal law, including cooperating with and not

impeding U.S. Immigration and Customs Enforcement (ICE) and other Federal offices and components of the Department of Homeland Security in and the enforcement of Federal immigration law.

(b) Pursuant to Section 3(b)(iv)(A) of Executive Order 14173, Ending Illegal Discrimination And Restoring Merit-Based Opportunity, the Recipient agrees that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the government's payment decisions for purposes of section 3729(b)(4) of title 31, United States Code.

(c) Pursuant to Section 3(b)(iv)(B) of Executive Order 14173, Ending Illegal Discrimination And Restoring Merit-Based Opportunity, by entering into this agreement, the Recipient certifies that it does not operate any programs promoting diversity, equity, and inclusion (DEI) initiatives that violate any applicable Federal anti-discrimination laws.

(d) The failure of this Agreement to expressly identify Federal law applicable to the Recipient or activities under this Agreement does not make that law inapplicable.

#### **20.3 Federal Freedom of Information Act**

(a) FRA is subject to the Freedom of Information Act (FOIA), 5 U.S.C. § 552.

(b) The Recipient acknowledges that the Application and materials submitted to FRA by the Recipient related to this Agreement will become FRA records that may be subject to public release under 5 U.S.C. § 552. If the Recipient submits any materials to FRA related to this Agreement that the Recipient considers to include trade secret or confidential commercial or financial information, the Recipient should note that the submission contains confidential business information, mark each affected page, and highlight or otherwise denote the portions of the submission that contain confidential business information.

#### **20.4 History of Performance**

Under 2 CFR § 200.206, any Federal awarding agency may consider the Recipient's performance under this Agreement, when assessing the risks of making a future Federal financial assistance award to the Recipient.

#### **20.5 Whistleblower Protection**

(a) The Recipient acknowledges that it is a "Recipient" within the scope of 41 U.S.C. § 4712, which prohibits the Recipient from taking certain actions against an employee for certain disclosures of information that the employee reasonably believes are evidence of gross mismanagement of this award, gross waste of Federal funds, or a violation of Federal law related this this award.

(b) The Recipient will inform its employees in writing of the rights and remedies provided under 41 U.S.C. § 4712, in the predominant native language of the workforce.



## **20.6 External Award Terms and Obligations**

(a) In addition to this document and the contents described in Article 25 of this Attachment 1, this Agreement includes the following additional terms as integral parts:

- (1) Appendix A to 2 CFR part 25: System for Award Management and Universal Identifier Requirements;
- (2) Appendix A to 2 CFR part 170: Reporting Subawards and Executive Compensation;
- (3) 2 CFR part 175: Award Term for Trafficking in Persons; and
- (4) Appendix XII to 2 CFR part 200: Award Term and Condition for Recipient Integrity and Performance Matters.

(b) The Recipient will comply with:

- (1) 49 CFR part 20: New Restrictions on Lobbying;
- (2) 49 CFR part 21: Nondiscrimination in Federally Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964, including any amendments thereto;
- (3) 49 CFR part 27: Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance; and
- (4) Subpart B of 49 CFR part 32: Governmentwide Requirements for Drug-free Workplace (Financial Assistance).

## **20.7 Incorporated Certifications**

The Recipient makes the representations in the following certifications, which are incorporated by reference:

- (a) Appendix A to 49 CFR part 20 (Certification Regarding Lobbying).

## **ARTICLE 21: ASSIGNMENT**

### **21.1 Assignment Prohibited**

The Recipient will not transfer to any other entity any discretion granted under this Agreement, any right to satisfy a condition under this Agreement, any remedy under this Agreement, or any obligation imposed under this Agreement.

## **ARTICLE 22: WAIVER**

### **22.1 Waivers**

- (a) A waiver of a term of this Agreement authorized by law and granted by FRA will not be effective unless it is in writing and signed by an authorized representative of FRA.

(b) A waiver of a term of this Agreement granted by FRA on one occasion will not operate as a waiver on other occasions.

(c) If FRA fails to require strict performance of a term of this Agreement, fails to exercise a remedy for a breach of this Agreement, or fails to reject a payment during a breach of this Agreement, that failure does not constitute a waiver of that term or breach.

## ARTICLE 23: ADDITIONAL TERMS AND CONDITIONS

### 23.1 Disclaimer of Federal Liability

FRA will not be responsible or liable for any damage to property or any injury to persons that may arise from, or be incident to, performance or compliance with this Agreement.

### 23.2 Environmental Review

(a) Except as authorized by law or under 23 CFR § 771.113(d)(4), the Recipient will not begin final design activities; acquire real property, construction materials, or equipment, including rolling stock; begin construction; or take other actions that would have an adverse environmental impact or limit the choice of reasonable alternatives for the Project unless and until FRA complies with the National Environmental Policy Act, 42 U.S.C. § 4321 et seq. (NEPA), and any other applicable environmental laws and regulations. In addition, the Recipient will not begin project development that involves ground disturbing activity prior to FRA compliance with NEPA and any other applicable environmental laws and regulations.

(b) The Recipient acknowledges that:

(1) FRA's actions under Section 23.2(a) of this Attachment 1 may depend on the Recipient conducting necessary environmental analyses and submitting necessary documents to FRA; and

(2) applicable environmental statutes and regulations may require the Recipient to prepare and submit documents to other Federal, State, and local agencies.

(c) Consistent with 23 CFR § 771.105(a), to the maximum extent practicable and consistent with Federal law, the Recipient will coordinate all environmental investigations, reviews, and consultations as a single process.

(f) The activities described in Article 4 of Attachment 2 of this Agreement and other information described in this Agreement may inform environmental decision-making processes, but the parties do not intend this Agreement to document the alternatives under consideration under those processes. If a build alternative is selected that does not align with Article 4 of Attachment 2 of this Agreement or other information in this Agreement, then FRA will either:

(1) amend this Agreement under Section 15.1 of this Attachment 1 for consistency with the selected build alternative; or

(2) if FRA determines that the condition at Section 10.1(a)(5) of this Attachment 1 is satisfied, terminate this Agreement under Section 10.1(a)(5) of this Attachment 1; or

(3) take other action as deemed appropriate by FRA.

(g) The Recipient will complete any mitigation activities described in the environmental document or documents for the Project, including the terms and conditions contained in the required permits and authorizations for the Project. Article 4 of Attachment 2 of this Agreement identifies documents describing mitigation activities, but the absence of a document from that section does not relieve the Recipient of any compliance obligations.

### **23.3 Project Maintenance Requirement**

The Recipient will ensure that any property and equipment funded within this Agreement is operated and maintained in good operating order and in accordance with 2 CFR §§ 200.310–200.316, 1201.313 and any guidelines, directives, or regulations that FRA may issue.

### **23.4 Appropriations Act Requirements**

The Recipient will comply with applicable requirements of the appropriations act identified in Section 6.3 of Attachment 2 of this Agreement.

### **23.5 Standards of Conduct**

The Recipient will comply with the following standards of conduct:

(a) Standards of Conduct. The Recipient will maintain a written code or standards of conduct governing the performance of its officers, employees, board members, or agents engaged in the award and administration of contracts or agreements supported by the Federal contribution provided through this Agreement. The code or standards will provide that the Recipient's officers, employees, board members, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential Subrecipients or contractors. The Recipient may set minimum rules where the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value. As permitted by state or local law or regulations, such code or standards will provide for penalties, sanctions, or other disciplinary actions for violations by the Recipient's officers, employees, board members, or agents, or by Subrecipients or their agents.

(b) Personal Conflict of Interest. The Recipient's code or standards must provide that no employee, officer, board member, or agent of the Recipient may participate in the selection, award, or administration of a contract supported by the Federal contribution if a real or apparent conflict of interest would be involved. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.



(c) **Organizational Conflicts of Interest.** The Recipient's code or standards of conduct must include procedures for identifying and preventing real and apparent organizational conflicts of interests. An organizational conflict of interest exists when the nature of the work to be performed under a proposed contract, may, without some restrictions on future activities, result in an unfair competitive advantage to the contractor or impair the contractor's objectivity in performing the contract work.

(d) **Existing Codes or Standards.** This Section does not require the Recipient to implement a new code or standards of conduct where a state statute, or written code or standards of conduct, already effectively covers all of the required elements.

(e) **Disclosure of Conflicts.** The Recipient will disclose in writing any potential conflict of interest to FRA or pass-through entity.

#### **23.6 Changed Conditions of Performance**

The Recipient will notify FRA of any event that may affect its ability to perform the Project in accordance with the terms of this Agreement.

#### **23.7 Litigation**

The Recipient will notify FRA in writing of any decision pertaining to the Recipient's conduct of litigation that may affect FRA's interests in the Project or FRA's administration or enforcement of applicable Federal laws or regulations. The Recipient will inform FRA in writing before naming FRA as a party to any type of litigation for any reason in any forum.

#### **23.8 [Reserved]**

#### **23.9 Equipment and Supplies**

The Recipient will maintain written policies and procedures that address acquisition, classification, and management of all equipment and supplies acquired or used under this award.

#### **23.10 Safety and Technology Data**

The Recipient will ensure that FRA has access to safety and technology relevant data generated by the Recipient under the award, in a machine-readable format, where specified in Article 4 of Attachment 2 of this Agreement.

#### **23.11 Intellectual Property**

The Recipient agrees to the standard patent rights clauses issued by the Department of Commerce at 37 CFR part 401, as applicable.

#### **23.12 Liquidation of Recipient Obligations**

(a) The Recipient will liquidate all obligations of award funds under this Agreement not later than 120 days after the end of the Period of Performance.

(b) Liquidation of obligations and adjustment of costs under this Agreement follow the requirements of 2 CFR §§ 200.344–200.346.

## ARTICLE 24: CONSTRUCTION AND DEFINITIONS

### 24.1 Agreement

This Agreement consists of the following:

- (a) Agreement Cover Sheet
- (b) Attachment 1: General Terms and Conditions
- (c) Attachment 2: Project-Specific Terms and Conditions
- (d) Exhibit A: Applicable Federal Laws and Regulations
- (e) Exhibit B: Additional Standard Terms
- (f) Exhibit C: Quarterly Project Progress Reports and Recertifications

### 24.2 Construction

(a) In these General Terms and Conditions, there are no references to articles or sections in project-specific portions of this Agreement that are not contained in Attachments or Exhibits listed in Section 24.1.

(b) If a provision in these General Terms and Conditions or the Exhibits conflicts with a provision in the Project-Specific Terms and Conditions in Attachment 2 of this Agreement, then the relevant portion in Attachment 2 prevails. If a provision in the Exhibits conflicts with a provision in these General Terms and Conditions, then the provision in these General Terms and Conditions prevails.

### 24.3 Integration

This Agreement constitutes the entire agreement of the parties relating to the Project and supersedes any previous agreements, oral or written, relating to the Project.

### 24.4 Definitions

This Section defines terms used in this Agreement. Additional definitions found in 2 CFR § 200.1 are incorporated by reference into this Agreement.

“Agreement Federal Funds” means the total amount of Federal funds obligated under this Agreement. This is the amount shown in Section 6.1 of Attachment 2 of this Agreement.

“Application” means the application identified in Article 3 of Attachment 2 of this Agreement, including Standard Form 424 and all information and attachments submitted with that form through Grants.gov.

“Construction Substantial Completion” means the stage of the Project when all construction tasks are complete such that the Recipient can use the Project for its intended use and only closeout activities remain. Activity to address or complete closeout activities will not prevent or disrupt use of the Project.



“Contingent Commitment” means the unobligated amounts of future available budget authority specified in law that FRA commits to obligate under the terms of this Agreement.

“Federal Share” means the sum of Agreement Federal Funds and Other Federal Funds. If there are no Other Federal Funds, the Federal Share is the same as the Agreement Federal Funds.

“General Terms and Conditions” means this Attachment 1.

“Other Federal Funds” means Federal funds that are part of the Approved Project Budget in Section 6.5 of Attachment 2 of this Agreement for the Project but are not obligated under this Agreement.

“Project” means the project proposed in the Application, as modified by the negotiated provisions of this Agreement, including Attachment 2 of this Agreement.

“Project Closeout” means the date that FRA notifies the Recipient that the award is closed out. Under 2 CFR § 200.344, Project Closeout should occur no later than one year after the end of the Period of Performance.

“Project Cost Savings” means the difference between the actual costs to complete the Project and the estimated total Project cost listed in Section 6.5 of Attachment 2 of this Agreement, if after the Recipient completes the tasks identified in Article 4 of Attachment 2 of this Agreement to FRA’s satisfaction, the actual Project costs are less than the estimated total Project costs.

“Rural Area” means any area that is not within an area designated as an urbanized area by the Bureau of the Census.

#### **24.5 Calendar Dates**

Unless otherwise specified, all dates and durations are in calendar days, calendar quarters, or calendar years, as appropriate.

#### **24.6 Communication in Writing**

Unless otherwise specified, all written communication may be provided by electronic mail.

#### **24.7 Severability**

If any provision of this Agreement is found to be invalid, illegal, or unenforceable, the validity, legality, or enforceability of the remaining provisions of this Agreement is not affected or impaired by such finding. A provision held to be unenforceable as applied to any party or circumstance remains applicable to other parties and circumstances.

## **ARTICLE 25: AGREEMENT EXECUTION AND EFFECTIVE DATE**

#### **25.1 Counterparts**

This agreement may be executed in counterparts, which constitute one document. The parties intend each countersigned original to have identical legal effect.



## 25.2 Effective Date

The agreement will become effective when all parties have signed it. The date of this Agreement will be the date this Agreement is signed by the last party to sign it.

## ARTICLE 26: PROGRAM-SPECIFIC CLAUSES

### 26.1 Interstate Rail Compacts Grant Program

The Recipient agrees to comply with the clauses in Section 26.1 of this Attachment 1.

Consistent with 49 U.S.C. § 22905(e), clauses (b) through (g) of Section 26.1 of this Attachment 1 do not apply to: 1) commuter rail passenger transportation (as defined in 49 U.S.C. § 24102(3)) operations of a State or local government authority (as those terms are defined in 49 U.S.C. § 5302) or its contractor performing services in connection with commuter rail passenger operations; 2) the Alaska Railroad or its contractors; or 3) Amtrak's access rights to railroad right of way and facilities under current law.

(a) Non-Federal Match. The Recipient will provide a Non-Federal match of not less than 50 percent of the eligible expenses under the grant.

(b) Buy America. In lieu of Section 12.1 of this Attachment 1, the Recipient will comply with the following clauses, as applicable:

(1) for infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2). For infrastructure projects, construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021) and 2 CFR part 184, as implemented by OMB, USDOT and FRA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

(2) for non-infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2).

(3) under Section 26.1 of this Attachment 1, "infrastructure project" has the definition provided in 2 CFR § 184.3.

(4) for all projects, the Recipient should under 2 CFR § 200.322, to the greatest extent practicable and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The Recipient shall include the requirements of 2 CFR § 200.322 in all subawards, contracts, and purchase orders under this award.

(c) **Operators Deemed Rail Carriers.** The Recipient recognizes and agrees that 49 U.S.C. § 22905(b) provides that persons conducting rail operations over rail infrastructure constructed or improved in whole or in part with funds provided under chapter 229 of Title 49, United States Code, will be considered a “rail carrier” as defined by 49 U.S.C. § 10102(5), for purposes of Title 49, United States Code, and any other statute that adopts that definition or in which that definition applies, including: the Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.); the Railway Labor Act (45 U.S.C. § 151 et seq.); and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.). The Recipient agrees to reflect this provision in its agreements (if any) with any entity operating rail services over such rail infrastructure.

(d) **Railroad Agreements.** In accordance with 49 U.S.C. § 22905(c)(1), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then Recipient represents that it has entered into a written agreement with that railroad owner, which includes: compensation for such use; assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations; an assurance by the railroad that collective bargaining agreements with railroad’s employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and an assurance that Recipient complies with liability requirements consistent with 49 U.S.C. § 28103.

By signing this Agreement, Recipient certifies that the written agreement referenced in this Section 26.1(d) has been executed or is not required.

Additional guidance on compliance with the Railroad Agreements provisions is available on FRA’s website at: <https://railroads.dot.gov/elibrary/frequently-asked-questions-about-rail-improvement-grant-conditions-under-49-usc-ss-22905c1>.

(e) **Labor Protective Arrangements.** In accordance with 49 U.S.C. § 22905(c)(2)(B), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then the Recipient will ensure compliance with the protective arrangements that are equivalent to those established under Section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976, 49 U.S.C. § 22404. Such protective arrangements are included herein as Exhibit B.5.

(f) **Davis-Bacon and Related Acts Provisions.** In accordance with 49 U.S.C. § 22905(c)(2)(A), if the Project funded by this Agreement uses rights-of-way owned by a railroad, the Recipient will ensure compliance with the standards of 49 U.S.C. § 24312 with respect to the Project in the same manner that Amtrak is required to comply with those standards for construction work financed under an agreement made under 49 U.S.C. § 24308(a). For these purposes, wages in collective bargaining agreements negotiated under the Railway Labor Act are deemed to comply with Davis-Bacon Act requirements.



(g) Replacement of Existing Intercity Passenger Rail Service. If an intercity passenger rail transportation provider replaces Amtrak intercity passenger rail service through a Project funded by this Agreement, then such provider must comply with the provisions of 49 U.S.C. § 22905(d).

(h) Operator Limitation. Recipient's eligible expenses must be related to intercity passenger rail service to be operated by Amtrak.

(i) Reporting. As requested by FRA, the Recipient will report on:

- (1) the status of the planning efforts and coordination funded by the grant award;
- (2) plans for continued implementation of the interstate rail compact;
- (3) the status of, and data regarding, any new, restored, or enhanced rail services initiated under the interstate rail compact; and
- (4) other data and information as requested by FRA.

## **26.2 Railroad Crossing Elimination Program Clauses**

The Recipient agrees to comply with the clauses in Section 26.2 of this Attachment 1.

Consistent with 49 U.S.C. §§ 22905(e) & 22909(j), clauses (b), (c), (d), and (g) of Section 26.2 of this Agreement 1 do not apply to: 1) commuter rail passenger transportation (as defined in 49 U.S.C. § 24102(3)) operations of a State or local government authority (as those terms are defined in 49 U.S.C. § 5302) or its contractor performing services in connection with commuter rail passenger operations; 2) the Alaska Railroad or its contractors; or 3) Amtrak's access rights to railroad right of way and facilities under current law. In addition, clause (f) does not apply to: 1) the Alaska Railroad or its contractors; or 2) Amtrak's access rights to railroad right of way and facilities under current law.

(a) Federal Share. The Federal Share of total Project costs shall not exceed 80 percent.

(b) Buy America. In lieu of Section 12.1 of this Agreement 1:

- (1) for infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this Agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2). For infrastructure projects, construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021) and 2 CFR part 184, as implemented by OMB, USDOT and FRA. The Recipient acknowledges that this Agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).
- (2) for non-infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this Agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2).

(3) under this Section, “infrastructure project” has the definition provided in 2 CFR § 184.3.

(4) for all projects, the Recipient should under 2 CFR § 200.322, to the greatest extent practicable and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The Recipient shall include the requirements of 2 CFR § 200.322 in all subawards, contracts, and purchase orders under this award.

(c) Operators Deemed Rail Carriers. The Recipient recognizes and agrees that 49 U.S.C. § 22905(b) provides that persons conducting rail operations over rail infrastructure constructed or improved in whole or in part with funds provided under chapter 229 of Title 49, United States Code, will be considered a “rail carrier” as defined by 49 U.S.C. § 10102(5), for purposes of Title 49, United States Code, and any other statute that adopts that definition or in which that definition applies, including: the Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.); the Railway Labor Act (45 U.S.C. § 151 et seq.); and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.). The Recipient agrees to reflect this provision in its agreements (if any) with any entity operating rail services over such rail infrastructure.

(d) Railroad Agreements. In accordance with 49 U.S.C. § 22905(c)(1), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then Recipient represents that it has entered into a written agreement with that railroad owner, which includes: compensation for such use; assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations; an assurance by the railroad that collective bargaining agreements with railroad’s employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and an assurance that Recipient complies with liability requirements consistent with 49 U.S.C. § 28103.

By signing this Agreement, Recipient certifies that the written agreement referenced in this Section 26.2(d) has been executed or is not required.

Additional guidance on compliance with the Railroad Agreements provisions is available on FRA’s website at: <https://railroads.dot.gov/elibrary/frequently-asked-questions-about-rail-improvement-grant-conditions-under-49-usc-ss-22905c1>.

(e) Impacted Rail Carrier or Real Property Owner Approvals. In accordance with 49 U.S.C. § 22909(e)(2)(A), prior to proceeding with the construction of the Project funded by this Agreement, if applicable, Recipient will obtain necessary approvals to commence construction from any impacted rail carriers or real property owners. If the Project is a planning project, as described in 49 U.S.C. § 22909(d)(6), the Recipient agrees to work collaboratively with rail carriers and right-of-way owners.

(f) Labor Protective Arrangements



(1) Notwithstanding 49 U.S.C. § 22905(e)(1), and in accordance with 49 U.S.C. § 22909(j)(3), any employee covered by the Railway Labor Act (45 U.S.C. § 151 et seq.) and the Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.) who is adversely affected by actions taken in connection with the project financed in whole or in part by such grant shall be covered by employee protective arrangements required to be established under 49 U.S.C. § 22905(c)(2)(B). In accordance with 49 U.S.C. § 22905(c)(2)(B), the Recipient will ensure compliance with the protective arrangements that are equivalent to those established under Section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976, 49 U.S.C. § 22404, as such protective arrangements are described in the final FRA guidance titled Equivalent Protections for Railroad Employees and effective December 28, 2022, included herein in Exhibit B.

(2) In accordance with 49 U.S.C. § 22909(j)(3), Recipient, and any successors, assigns, and contractors of Recipient:

- i. shall be bound by the employee protective arrangements required under subparagraph (1); and
- ii. shall be responsible for the implementation of such arrangements and for the obligations under such arrangements, but may arrange for another entity to take initial responsibility for compliance with the conditions of such arrangement.

(3) Labor protections required pursuant to Subsection (f) of Section 26.2 of this Attachment 1 shall be documented consistent with Article 18 of this Attachment 1.

(g) Davis-Bacon and Related Acts Provisions. In accordance with 49 U.S.C. § 22905(c)(2)(A), if the Project funded by this Agreement uses rights-of-way owned by a railroad, the Recipient will ensure compliance with the standards of 49 U.S.C. § 24312 with respect to the Project in the same manner that Amtrak is required to comply with those standards for construction work financed under an agreement made under 49 U.S.C. § 24308(a). For these purposes, wages in collective bargaining agreements negotiated under the Railway Labor Act are deemed to comply with Davis-Bacon Act requirements.

(h) Replacement of Existing Intercity Passenger Rail Service. If an intercity passenger rail transportation provider replaces Amtrak intercity passenger rail service through a Project funded by this Agreement, then such provider must comply with the provisions of 49 U.S.C. § 22905(d).

### **26.3 Consolidated Rail Infrastructure and Safety Improvements Grants Clauses**

The Recipient agrees to comply with the clauses in Section 26.3 of this Attachment 1.

Consistent with 49 U.S.C. § 22905(e), clauses (b) and (c) through (g) of Section 26.3 of this Attachment 1 do not apply to: 1) commuter rail passenger transportation (as defined in 49



U.S.C. § 24102(3)) operations of a State or local government authority (as those terms are defined in 49 U.S.C. § 5302) or its contractor performing services in connection with commuter rail passenger operations; 2) the Alaska Railroad or its contractors; or 3) Amtrak's access rights to railroad right of way and facilities under current law.

(a) Federal Share. The Federal Share of total Project costs shall not exceed 80 percent.

(b) Buy America. In lieu of Section 12.1 of this Attachment 1:

(1) for infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this Agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2). For infrastructure projects, construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021) and 2 CFR part 184, as implemented by OMB, USDOT and FRA. The Recipient acknowledges that this Agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

(2) for non-infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this Agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2).

(3) under this Section, "infrastructure project" has the definition provided in 2 CFR § 184.3.

(4) for all projects, the Recipient should under 2 CFR § 200.322, to the greatest extent practicable and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The Recipient shall include the requirements of 2 CFR § 200.322 in all subawards, contracts, and purchase orders under this award.

(c) Operators Deemed Rail Carriers. The Recipient recognizes and agrees that 49 U.S.C. § 22905(b) provides that persons conducting rail operations over rail infrastructure constructed or improved in whole or in part with funds provided under chapter 229 of Title 49, United States Code, will be considered a "rail carrier" as defined by 49 U.S.C. § 10102(5), for purposes of Title 49, United States Code, and any other statute that adopts that definition or in which that definition applies, including: the Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.); the Railway Labor Act (45 U.S.C. § 151 et seq.); and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.). The Recipient agrees to reflect this provision in its agreements (if any) with any entity operating rail services over such rail infrastructure.

(d) Railroad Agreements. In accordance with 49 U.S.C. § 22905(c)(1), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then Recipient represents that it has entered into a written agreement with that railroad owner, which includes:

compensation for such use; assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations; an assurance by the railroad that collective bargaining agreements with railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and an assurance that Recipient complies with liability requirements consistent with 49 U.S.C. § 28103.

By signing this Agreement, Recipient certifies that the written agreement referenced in this Section 26.3(d) has been executed or is not required.

Additional guidance on compliance with the Railroad Agreements provisions is available on FRA's website at: <https://railroads.dot.gov/elibrary/frequently-asked-questions-about-rail-improvement-grant-conditions-under-49-usc-ss-22905c1>.

(e) Labor Protective Arrangements. In accordance with 49 U.S.C. § 22905(c)(2)(B), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then the Recipient will ensure compliance with the protective arrangements that are equivalent to those established under Section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976, 49 U.S.C. § 22404. Such protective arrangements are included herein as Exhibit B.5.

(f) Davis-Bacon and Related Acts Provisions. In accordance with 49 U.S.C. § 22905(c)(2)(A), if the Project funded by this Agreement uses rights-of-way owned by a railroad, the Recipient will ensure compliance with the standards of 49 U.S.C. § 24312 with respect to the Project in the same manner that Amtrak is required to comply with those standards for construction work financed under an agreement made under 49 U.S.C. § 24308(a). For these purposes, wages in collective bargaining agreements negotiated under the Railway Labor Act are deemed to comply with Davis-Bacon Act requirements.

(g) Replacement of Existing Intercity Passenger Rail Service. If an intercity passenger rail transportation provider replaces Amtrak intercity passenger rail service through a Project funded by this Agreement, then such provider must comply with the provisions of 49 U.S.C. § 22905(d).

#### **26.4 Restoration and Enhancement Grants Clauses**

The Recipient agrees to comply with the clauses in Section 26.4 of this Attachment 1.

Consistent with 49 U.S.C. § 22905(e), clauses (b) and (c) through (g) of Section 26.4 do not apply to: 1) commuter rail passenger transportation (as defined in 49 U.S.C. § 24102(3)) operations of a State or local government authority (as those terms are defined in 49 U.S.C. § 5302) or its contractor performing services in connection with commuter rail passenger operations; 2) the Alaska Railroad or its contractors; or 3) Amtrak's access rights to railroad right-of-way and facilities under current law.

(a) Maximum Funding Limitation. A grant authorized by 49 U.S.C. § 22908 may not exceed:

- (1) 90 percent of the projected net operating costs for the first year of service;
- (2) 80 percent of the projected net operating costs for the second year of service;
- (3) 70 percent of the projected net operating costs for the third year of service;
- (4) 60 percent of the projected net operating costs for the fourth year of service;
- (5) 50 percent of the projected net operating costs for the fifth year of service;
- and
- (6) 30 percent of the projected net operating costs for the sixth year of service.

(b) Buy America. In lieu of Section 12.1 of this Agreement 1:

(1) for infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this Agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2). For infrastructure projects, construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021) and 2 CFR part 184, as implemented by OMB, USDOT, and FRA. The Recipient acknowledges that this Agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

(2) for non-infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this Agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2).

(3) under Section 26.4 of this Attachment 1, “infrastructure project” has the definition provided in 2 CFR § 184.3.

(4) for all projects, the Recipient should under 2 CFR § 200.322, to the greatest extent practicable and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The Recipient shall include the requirements of 2 CFR § 200.322 in all subawards, contracts, and purchase orders under this award.

(c) Operators Deemed Rail Carriers. The Recipient recognizes and agrees that 49 U.S.C. § 22905(b) provides that persons conducting rail operations over rail infrastructure constructed or improved in whole or in part with funds provided under chapter 229 of Title 49, United States Code, will be considered a “rail carrier” as defined by 49 U.S.C. § 10102(5), for purposes of Title 49, United States Code, and any other statute that adopts that definition or in which that definition applies, including: the Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.); the Railway Labor Act (45 U.S.C. § 151 et seq.); and the



Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.). The Recipient agrees to reflect this provision in its agreements (if any) with any entity operating rail services over such rail infrastructure.

(d) Railroad Agreements. In accordance with 49 U.S.C. § 22905(c)(1), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then Recipient represents that it has entered into a written agreement with that railroad owner, which includes: compensation for such use; assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations; an assurance by the railroad that collective bargaining agreements with railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and an assurance that Recipient complies with liability requirements consistent with 49 U.S.C. § 28103.

By signing this Agreement, Recipient certifies that the written agreement referenced in this Section 26.4(d) has been executed or is not required.

Additional guidance on compliance with the Railroad Agreements provisions is available on FRA's website at: <https://railroads.dot.gov/elibrary/frequently-asked-questions-about-rail-improvement-grant-conditions-under-49-usc-ss-22905c1>.

(e) Labor Protective Arrangements. In accordance with 49 U.S.C. § 22905(c)(2)(B), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then the Recipient will ensure compliance with the protective arrangements that are equivalent to those established under Section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976, 49 U.S.C. § 22404. Such protective arrangements are included herein as Exhibit B.5.

(f) Davis-Bacon and Related Acts Provisions. In accordance with 49 U.S.C. § 22905(c)(2)(A), if the Project funded by this Agreement uses rights-of-way owned by a railroad, the Recipient will ensure compliance with the standards of 49 U.S.C. § 24312 with respect to the Project in the same manner that Amtrak is required to comply with those standards for construction work financed under an agreement made under 49 U.S.C. § 24308(a). For these purposes, wages in collective bargaining agreements negotiated under the Railway Labor Act are deemed to comply with Davis-Bacon Act requirements.

(g) Replacement of Existing Intercity Passenger Rail Service. If an intercity passenger rail transportation provider replaces Amtrak intercity passenger rail service through a Project funded by this Agreement, then such provider must comply with the provisions of 49 U.S.C. § 22905(d).

(h) Route Reporting. The Recipient will provide similar information regarding the route performance, financial, and ridership projections, and capital and business plans that Amtrak is required to provide, and such other data and information as is required by Article 4 of Attachment 2 of this Agreement.

(i) Termination. In addition to the terms of this Attachment 1, FRA may terminate this Agreement upon the cessation of service, or the violation of any other term of this Agreement.

## **26.5 Federal-State Partnership for Intercity Passenger Rail and Federal-State Partnership for State of Good Repair Clauses**

The Recipient agrees to comply with the clauses in Section 26.5 of this Attachment 1.

Consistent with 49 U.S.C. § 22905(e), clauses (b) through (g) of Section 26.5 of this Attachment 1 do not apply to: 1) commuter rail passenger transportation (as defined in 49 U.S.C. § 24102(3)) operations of a State or local government authority (as those terms are defined in 49 U.S.C. § 5302) or its contractor performing services in connection with commuter rail passenger operations; 2) the Alaska Railroad or its contractors; or 3) Amtrak's access rights to railroad right of way and facilities under current law.

(a) Federal Share. The Federal Share of total Project costs shall not exceed 80 percent.

(b) Buy America. In lieu of Section 12.1 of this Attachment 1:

(1) for infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this Agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2). For infrastructure projects, construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021) and 2 CFR part 184, as implemented by OMB, USDOT and FRA. The Recipient acknowledges that this Agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

(2) for non-infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this Agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2).

(3) under this Section, "infrastructure project" has the definition provided in 2 CFR § 184.3.

(4) for all projects, the Recipient should under 2 CFR § 200.322, to the greatest extent practicable and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The Recipient shall include the requirements of 2 CFR § 200.322 in all subawards, contracts, and purchase orders under this award.

(c) Operators Deemed Rail Carriers. The Recipient recognizes and agrees that 49 U.S.C. § 22905(b) provides that persons conducting rail operations over rail infrastructure constructed or improved in whole or in part with funds provided under chapter 229 of Title 49, United States Code, will be considered a "rail carrier" as defined by 49 U.S.C. §

10102(5), for purposes of Title 49, United States Code, and any other statute that adopts that definition or in which that definition applies, including: the Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.); the Railway Labor Act (45 U.S.C. § 151 et seq.); and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.). The Recipient agrees to reflect this provision in its agreements (if any) with any entity operating rail services over such rail infrastructure.

(d) **Railroad Agreements.** In accordance with 49 U.S.C. § 22905(c)(1), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then Recipient represents that it has entered into a written agreement with that railroad owner, which includes: compensation for such use; assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations; an assurance by the railroad that collective bargaining agreements with railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and an assurance that Recipient complies with liability requirements consistent with 49 U.S.C. § 28103.

By signing this Agreement, Recipient certifies that the written agreement referenced in this Section 26.5(d) has been executed or is not required.

Additional guidance on compliance with the Railroad Agreements provisions is available on FRA's website at: <https://railroads.dot.gov/elibrary/frequently-asked-questions-about-rail-improvement-grant-conditions-under-49-usc-ss-22905c1>.

(e) **Labor Protective Arrangements.** In accordance with 49 U.S.C. § 22905(c)(2)(B), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then the Recipient will ensure compliance with the protective arrangements that are equivalent to those established under Section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976, 49 U.S.C. § 22404. Such protective arrangements are included herein as Exhibit B.5.

(f) **Davis-Bacon and Related Acts Provisions.** In accordance with 49 U.S.C. § 22905(c)(2)(A), if the Project funded by this Agreement uses rights-of-way owned by a railroad, the Recipient will ensure compliance with the standards of 49 U.S.C. § 24312 with respect to the Project in the same manner that Amtrak is required to comply with those standards for construction work financed under an agreement made under 49 U.S.C. § 24308(a). For these purposes, wages in collective bargaining agreements negotiated under the Railway Labor Act are deemed to comply with Davis-Bacon Act requirements.

(g) **Replacement of Existing Intercity Passenger Rail Service.** If an intercity passenger rail transportation provider replaces Amtrak intercity passenger rail service through a Project funded by this Agreement, then such provider must comply with the provisions of 49 U.S.C. § 22905(d).

(h) **Northeast Corridor Cost Allocation.** For projects located on the Northeast Corridor, as that term is defined in 49 U.S.C. § 24911(a)(4), Amtrak and the public authorities providing commuter rail passenger transportation at the Project location on the Northeast Corridor must remain in compliance with 49 U.S.C. § 24905(c)(2).

(i) **Interest and Financing Costs.** Pursuant to 49 U.S.C. § 24911(g)(2), interest and other financing costs of efficiently carrying out a part of the Project within a reasonable time are a cost of carrying out the Project under a Phased Funding Agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the Project at the time of borrowing. The Recipient will certify to FRA's satisfaction that the Recipient has shown reasonable diligence in seeking the most favorable financing terms.

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## Attachment 2

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# PROJECT-SPECIFIC TERMS AND CONDITIONS

## Project-Specific Terms and Conditions

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## ARTICLE 1: PROJECT-SPECIFIC DESIGNATIONS

### 1.1 Recipient

This Agreement (Agreement) is between the Federal Railroad Administration (FRA) and the City of Birmingham (the Recipient).

### 1.2 Project and Purpose

The purpose of this award is to fund a Fiscal Year (FY) 2022 Consolidated Rail Infrastructure and Safety Improvements (CRISI) grant for the Reduce Extended Delays; Enhance Safety; and Invest in Growing Neighborhoods (R.E.D.E.S.I.G.N.) (the Project), as described in Article 4 of this Attachment 2, to help achieve the goals identified in the FY 2022 Notice of Funding Opportunity that solicited applications for Federal financial assistance. FRA and the Recipient will accomplish that purpose by timely completing the Project and ensuring that this award does not substitute for non-Federal investment in the Project, except as proposed in the Application.

### 1.3 Program Designations

- (a) Research and Development. This award is not for research and development.
- (b) Project Size. This award is for a non-Major Project as that term is defined in FRA Guidance on Development and Implementation of Railroad Capital Projects, January 11, 2023 (Railroad Capital Projects Guidance).
- (c) Phased Funding. This award is not a phased funding agreement as further discussed in Section 6.7 of this Attachment 2.
- (d) Grant or Cooperative Agreement. This award is made as a Grant Agreement.
- (e) Security Risk. This award is for a Project that has a low security risk.
- (f) Rural Area. The information the Recipient provided to FRA, including in the Application, demonstrates this award is not for a Project in a Rural Area.

## ARTICLE 2: SPECIAL TERMS AND CONDITIONS

There are no special terms for this award.

## ARTICLE 3: ADMINISTRATIVE INFORMATION

### 3.1 Application

Application Title: Reduce Extended Delays; Enhance Safety; and Invest in Growing Neighborhoods (R.E.D.E.S.I.G.N.)

Application Date: December 1, 2022 3.2 FRA Awarding Official

FRA Office of Railroad Development  
Federal Railroad Administration  
1200 New Jersey Ave, SE  
Washington, DC 20590  
FRA-Grants@dot.gov

### **3.3 Federal Award Date**

The “Federal Award Date” is the effective date of this Agreement, as defined under Section 25.2 of Attachment 1 of this Agreement.

### **3.4 Program Name and Assistance Listings Number**

For the Railroad Crossing Elimination program, the Assistance Listings Number is 20.325 and the Assistance Listings Title is Consolidated Rail Infrastructure and Safety Improvements.

### **3.5 Recipient’s Unique Entity Identifier**

The Recipient’s Unique Entity Identifier, as defined at 2 CFR § 25.415, is listed in Section 1B on the Agreement cover sheet.

### **3.6 Federal Award Identification Number**

The Federal Award Identification Number is listed in Section 2 on the Agreement cover sheet as the “Agreement Number.”

## **ARTICLE 4: STATEMENT OF WORK**

### **4.1 General Project Description**

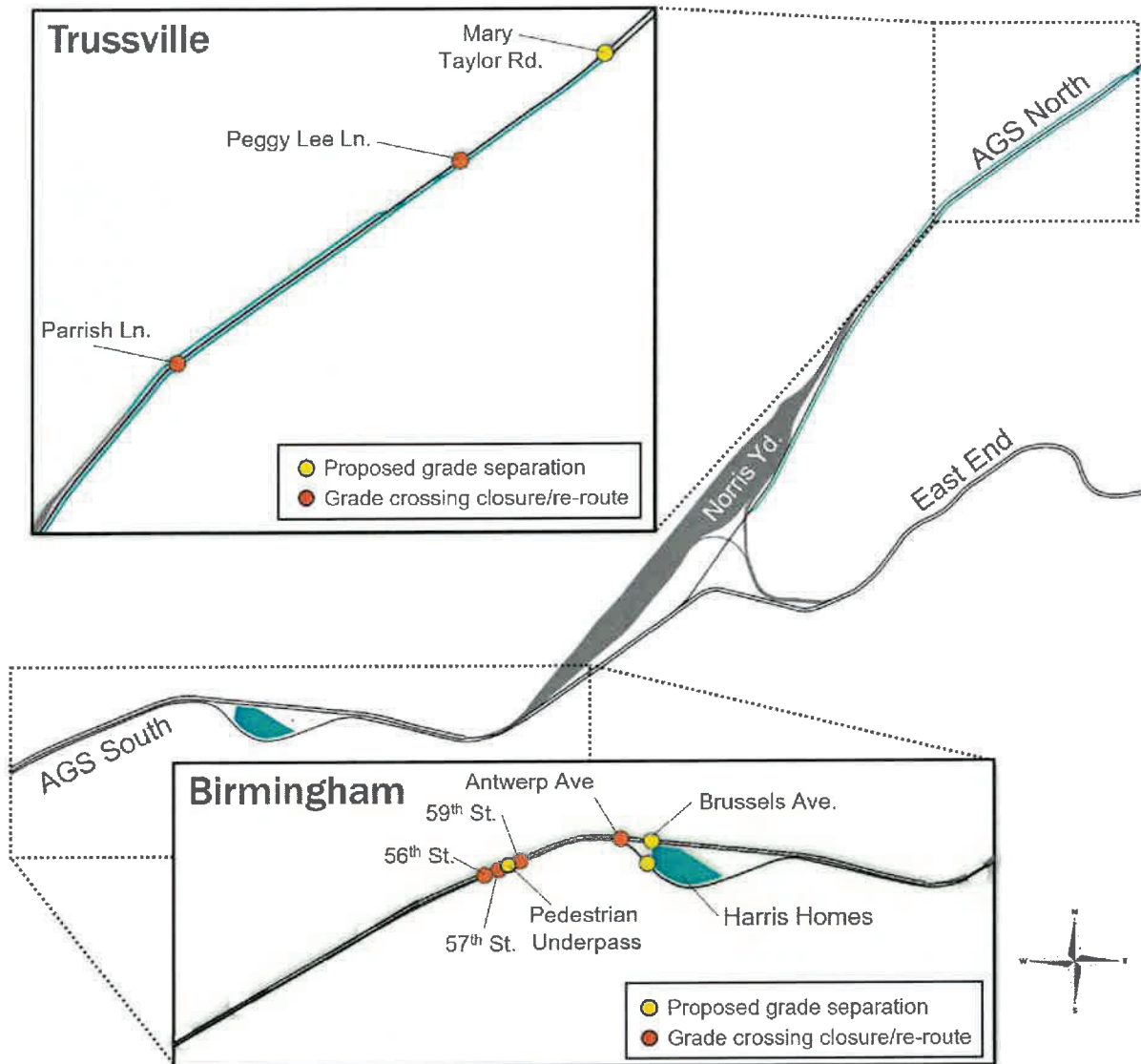
Under the Project, the Recipient will conduct Project Development activities, including environmental review and preliminary engineering on two segments along Norfolk Southern Railway’s rail line for various track, bridge, signal, road re-alignment, and grade crossing improvements. Grade crossing improvements will include grade separations and closure of multiple crossings. The Project is located within Jefferson County, Alabama and includes the cities of Trussville and Birmingham.

The Project will improve system and service performance as it will advance efforts to improve community safety and access to schools and residential areas with fewer blocked train encounters, and it will increase the fluidity of freight and Amtrak’s Crescent passenger rail operations.

### **4.2 Project Location**

The Project is located within the eastern portion of Jefferson County, Alabama, including the cities of Trussville and Birmingham, as shown in Figure 1: Project Map. The Project includes track and crossing improvements along two segments of Norfolk Southern Railway’s rail line, the AGS North District and the AGS South and East End Districts. The AGS North improvements begin in Trussville, just south of the Cahaba River crossing and extend south to Norris Yard, which is located within the city limits of

ir 1 2  
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### **4.3 Project Scope**

The Recipient will notify FRA in writing of any requested changes in Project Scope and will not proceed with the changed scope unless approved by FRA in writing. If approved, changes to Project Scope may require additional environmental review or an amendment to this Agreement.

#### **Task 1: Project Administration and Management**

##### Subtask 1.1: Project Administration

The Recipient will perform all tasks required for the Project through a coordinated process, which will involve affected railroad owners, operators, and funding partners, including:

- Norfolk Southern Railroad (NS) (Railroad Owner, Operator, and Funding Partner)
- City of Trussville (Funding Partner)
- City of Birmingham (Funding Partner)
- FRA

The Recipient will facilitate the coordination of all activities necessary for implementation of the Project. The Recipient will:

- participate in a Project kickoff meeting with FRA following award;
- complete necessary steps to hire a qualified consultant/contractor to perform required Project work, as necessary;
- hold regularly scheduled Project meetings with FRA;
- inspect and approve work as it is completed; and
- participate in other coordination, as needed.

The Recipient will demonstrate to FRA that it is carrying out the project benefits in the most cost-efficient manner.

##### Subtask 1.2: Project Management Plan

The Recipient will prepare a Project Management Plan (PMP), that describes how the Project will be implemented and monitored to ensure effective, efficient, and safe delivery of the Project on time and within budget. The PMP will describe, in detail, the activities and steps necessary to complete the tasks outlined in this Statement of Work.

The PMP will include a Project Schedule and Project Budget for the work to be performed under this Agreement. The Project Schedule will be consistent with the Estimated Project Schedule in Section 5.2 of this Attachment 2, but provide a greater level of detail. Similarly, the Project Budget should be consistent with the Approved Project Budget in Section 6.5 of this Attachment 2, but provide a greater level of detail.

The Recipient will submit the PMP to FRA for review and approval. The Recipient will implement the Project as described in the approved PMP. The Recipient will not begin work on subsequent tasks until FRA has provided written approval of the PMP, unless FRA has provided pre-award authority for such

work under Section 6.6 of this Attachment 2. FRA will not reimburse the Recipient for costs incurred in contravention of this requirement.

FRA may require the Recipient to update the PMP. The Recipient will submit any such updates to FRA for review and approval, and FRA will determine if updates to the PMP require an amendment to this Agreement. The Project Budget and Project Schedule may be revised consistent with Article 5 of Attachment 1 of this Agreement without amending this Agreement.

#### Subtask 1.3: Project Closeout

The Recipient will submit a Final Performance Report as required by Section 7.2 of Attachment 1 of this Agreement, which should describe the cumulative activities of the Project, including a complete description of the Recipient's achievements with respect to the Project objectives and milestones.

#### **Task 1 Deliverables:**

| Deliverable ID | Subtask | Deliverable Name         |
|----------------|---------|--------------------------|
| 1.1            | 1.2     | Project Management Plan  |
| 1.2            | 1.3     | Final Performance Report |

#### **Task 2: Environmental Review**

The Recipient will not commence work on Task 2: Environmental Review until FRA has approved the PMP deliverable described in Task 1: Project Administration and Management and provided written notification to proceed.

The Recipient will prepare all required documentation to comply with applicable environmental laws, including but not limited to the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act, Section 4(f) of the US DOT Act, and Section 7 of the Endangered Species Act, as well as applicable implementing regulations and guidance. The Recipient will provide FRA with sufficient information to determine the NEPA Class of Action and will prepare the environmental documentation as detailed in the PMP. The PMP will identify information and activities necessary to perform and complete the required environmental review.

**Task 2 Deliverables:**

| Deliverable ID | Deliverable Name         |
|----------------|--------------------------|
| 2              | Final NEPA Documentation |

**Task 3: Preliminary Engineering**

The Recipient will not commence work on Task 3: Preliminary Engineering until FRA has approved the PMP deliverable described in Task 1: Project Administration and Management and provided written notification to proceed.

The Recipient will complete and submit a preliminary engineering (PE) design set to FRA for approval, as specified in the PMP. The PE design set includes engineering from concept through the 30% design level, as detailed in the PMP, which includes but is not limited to necessary field surveys, operational analysis, legal due diligence, and preparation of drawings and cost estimates. The PE Design Set will include all design development and Project delivery documentation, along with eligible and allowable cost estimates, with associated project milestone timelines necessary to demonstrate the effectiveness, feasibility, and readiness of the Project for final design and construction.

**Task 3 Deliverables:**

| Deliverable ID | Deliverable Name |
|----------------|------------------|
| 3              | PE Design Set    |

**4.4 Implement Required Environmental Commitments**

None.

## ARTICLE 5: AWARD DATES AND ESTIMATED PROJECT SCHEDULE

**5.1 Award Dates**

Budget Period End Date: January 31, 2027

Period of Performance End Date: January 31, 2027

**5.2 Estimated Project Schedule**

Milestones associated with this Agreement are identified in Table 5-A: Estimated Project Schedule. The Recipient will complete these milestones to FRA's satisfaction by the Schedule Date, subject to Article 5 of Attachment 1 of this Agreement. The Recipient will notify FRA in writing when it believes it has achieved the milestone.

**Table 5-A: Estimated Project Schedule**

| Milestone                          | Schedule Date                |
|------------------------------------|------------------------------|
| Project Management Plan Completion | Within 30 Days of Obligation |
| Final NEPA Documentation           | September 31, 2026           |
| PE Design Set                      | December 31, 2026            |

## ARTICLE 6: AWARD AND PROJECT FINANCIAL INFORMATION

### 6.1 Award Amount

Agreement Federal Funds: \$8,000,000

### 6.2 Federal Obligation Information

Federal Obligation Type: Single

### 6.3 Federal Authorization and Funding Source.

Authorizing Statute: 49 U.S.C. 22907

Appropriation: Consolidated Appropriations Act, 2022, Div. L, Tit. I, Pub. L 117-103 (2022 Appropriation, March 15, 2022); Infrastructure Investment and Jobs Act, Div. J, Tit. VII, Pub. L 117-58 (FY 2022 advanced appropriations, November 15, 2021))

### 6.4 Funding Availability

Program funding that is obligated under this Agreement remains available until expended.

### 6.5 Approved Project Budget

The estimated total Project cost under this Agreement is \$10,000,000.

FRA will contribute a maximum of 80 percent of the total Project cost, not to exceed the Agreement Federal Funds in Section 6.1 of this Attachment 2. FRA will fund the Project at the lesser amount of the Agreement Federal Funds or the FRA maximum contribution percentage of total Project costs.

The Recipient will contribute \$2,000,000 in Agreement Non-Federal Funds. Recipient's Agreement Non-Federal Funds are comprised of [Norfolk Southern Railroad (\$1,500,000), City of Birmingham (\$250,000), and City of Trussville (\$250,000).

The Recipient will complete the Project to FRA's satisfaction within the Approved Project Budget, subject to Article 5 of Attachment 1 of this Agreement.

**Table 6-A: Approved Project Budget by Task**

| Task #       | Task Title                            | Agreement Federal Funds | Agreement Non-Federal Funds | Total                                   |
|--------------|---------------------------------------|-------------------------|-----------------------------|-----------------------------------------|
| 1            | Project Administration and Management | \$0                     | \$0                         | \$0                                     |
| 2            | Environmental Review                  | \$1,200,000             | \$300,000                   | \$1,500,000                             |
| 3            | Preliminary Engineering               | \$6,800,000             | \$1,700,000                 | \$8,500,000                             |
| <b>Total</b> |                                       | <b>\$ 8,000,000</b>     | <b>\$2,000,000</b>          | <b>Total Project Cost: \$10,000,000</b> |

**Table 6-B: Approved Project Budget by Source**

| Funding Source                     | Total Amount       | Percentage of Total Project Cost |
|------------------------------------|--------------------|----------------------------------|
| <b>Federal Share</b>               | <b>\$8,000,000</b> | <b>80%</b>                       |
| Agreement Federal Funds            |                    |                                  |
| FRA CRISI                          | \$8,000,000        | 80%                              |
| <b>Agreement Non-Federal Funds</b> | <b>\$2,000,000</b> | <b>20%</b>                       |
| Norfolk Southern Railroad          | \$1,500,000        | 15%                              |
| City of Birmingham                 | \$250,000          | 2.5%                             |
| City of Trussville                 | \$250,000          | 2.5%                             |

#### 6.6 Pre-Award Costs

None. Consistent with 2 CFR part 200, costs incurred before the date of this Agreement are not allowable costs under this award. FRA will neither reimburse those costs under this award nor consider them as a non-Federal cost-sharing contribution to this award.

#### 6.7 Phased Funding Agreement

Not applicable.

## ARTICLE 7: PERFORMANCE MEASUREMENT INFORMATION

Table 7-A: Performance Measurement Table identifies the performance measures that this Project is expected to achieve. These performance measures will enable FRA to assess the Recipient's progress in achieving grant program goals and objectives. The Recipient will report on these performance measures in accordance with the frequency and duration specified in Table 7-A.

Upon Project completion, the Recipient will submit reports comparing the actual Project performance of the new and or improved asset(s) against the pre-Project (baseline) performance and expected post-Project performance as described in Table 7-A. The Recipient will submit the performance measures report to the Project Manager in accordance with Table 7-A.

**Table 7-A: Performance Measurement Table**

| Goal                                                                                                               | Objective                                                        | Performance Measure                                                                            | Description of Measure                                                                  | Measurement                                                                                                  | Reporting                                             |
|--------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| <i>Completion of Preliminary Engineering for the Project, including highway rail grade crossing elimination(s)</i> | Satisfactory Design Completion                                   | Satisfactory Completion of preliminary engineering and final design documents and deliverables | All deliverables required in Section 4.3 are successfully completed and accepted by FRA | <b>Pre-Project (Baseline) Performance as of March 2024</b><br><br>Not applicable since no document completed | <b>Frequency:</b><br><br>During period of performance |
|                                                                                                                    |                                                                  |                                                                                                |                                                                                         | <b>Expected Post-Project Performance:</b><br><br>Yes; documents/deliverables completed                       | <b>Duration:</b><br><br>One time                      |
| <i>Completion of Environmental Review for the Project, including highway rail</i>                                  | Satisfactory completion of the NEPA environmental review process | Completion of NEPA documents/deliverables acceptable to FRA                                    | All deliverables in Section 4.3 are successfully                                        | <b>Pre-Project (Baseline) Performance as of March 2024:</b> Not applicable since no document completed       | <b>Frequency:</b><br><br>During period of performance |

|                                      |  |  |                               |                                                                                       |                                  |
|--------------------------------------|--|--|-------------------------------|---------------------------------------------------------------------------------------|----------------------------------|
| <i>grade crossing elimination(s)</i> |  |  | completed and accepted by FRA |                                                                                       |                                  |
|                                      |  |  |                               | <b>Expected Post-Project Performance:</b><br><br>Yes; document/deliverables completed | <b>Duration:</b><br><br>One time |

## ARTICLE 8: ENVIRONMENTAL COMPLIANCE

In accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. § 4321 et seq.), other environmental statutes, and related regulatory requirements, on April 16, 2025, FRA determined that the actions funded under this Agreement as described in this Attachment 2, Section 4.3 are categorically excluded from detailed environmental review pursuant to 23 CFR § 771.116(c)(3). In accordance with Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108; 36 CFR part 800), FRA has also determined that the actions funded under this Agreement have no potential to cause effects to historic properties. The actions do not require the use of property protected by Section 4(f) of the Department of Transportation Act (49 U.S.C. § 303; 23 CFR part 774).

Categorical exclusion (CE) means a category of actions that a Federal agency has determined normally do not have a significant impact on the quality of the human environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). 42 U.S.C. § 4336(e)(1). In analyzing the applicability of a CE, FRA also considered whether unusual circumstances are present that would warrant a more detailed environmental review through the preparation of an EA or EIS. In accordance with 23 CFR § 771.116 (a) and (b), FRA further concluded that no unusual circumstances exist with respect to development of the activities funded under this grant that might trigger the need for a more detailed environmental review.

Should conditions or the scope of the action change, the Recipient must notify FRA and receive written response and notice to proceed before proceeding. FRA will evaluate whether this determination remains applicable or if additional environmental review is necessary.

## ARTICLE 9: LABOR AND WORK

### 9.1 Efforts to Support Good-Paying Jobs and Strong Labor Standards

This Section identifies the Recipient's efforts to support good-paying jobs and strong labor standards related to the Project. The Recipient certifies that rows marked with "X" in the following table are accurate:

|   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   | The Recipient or a project partner promotes robust job creation by supporting good-paying jobs directly related to the project with free and fair choice to join a union. (Describe robust job creation and identify the good-paying jobs in the supporting narrative below.)                                                                                                                                                                                                                                       |
|   | The Recipient or a project partner will invest in high-quality workforce training programs such as registered apprenticeship programs to recruit, train, and retain skilled workers, and implement policies such as targeted hiring preferences. (Describe the training programs in the supporting narrative below.)                                                                                                                                                                                                |
|   | The Recipient or a project partner will partner with high-quality workforce development programs with supportive services to help train, place, and retain workers in good-paying jobs or registered apprenticeships including through the use of local and economic hiring preferences, linkage agreements with workforce programs, and proactive plans to prevent harassment. (Describe the supportive services provided to trainees and employees, preferences, and policies in the supporting narrative below.) |
|   | The Recipient or a project partner will partner with communities or community groups to develop workforce strategies. (Describe the partnership and workforce strategies in the supporting narrative below.)                                                                                                                                                                                                                                                                                                        |
|   | The Recipient or a project partner has taken other actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards. (Describe those actions in the supporting narrative below.)                                                                                                                                                                                                                                                      |
|   | The Recipient or a project partner has not yet taken actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards but, before beginning construction of the Project, will take relevant actions described below. (Identify the relevant actions in the supporting narrative below.)                                                                                                                                               |
| X | The Recipient or a project partner has not taken actions related to the Project to improve good-paying jobs and strong labor standards and will not take those actions under this award.                                                                                                                                                                                                                                                                                                                            |

## 9.2 Supporting Narrative

N/A

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U.S. Department of Transportation  
**Federal Railroad Administration**

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## Exhibits

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Revision Date: April 30, 2025

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## EXHIBIT A: APPLICABLE FEDERAL LAWS AND REGULATIONS

By entering into this Agreement, the Recipient assures and certifies, with respect to this award, that it will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Project. Performance under this Agreement shall be governed by and in compliance with the following requirements, as applicable, to the type of organization of the Recipient and any applicable sub-recipients. The applicable provisions to this Agreement include, but are not limited to, the following:

### GENERAL FEDERAL LEGISLATION

- a. Davis-Bacon Act – 40 U.S.C. § 3141 et seq.
- b. Federal Fair Labor Standards Act – 29 U.S.C. § 201 et seq.
- c. Hatch Act – 5 U.S.C. § 1501 et seq.
- d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 – 42 U.S.C. § 4601 et seq.
- e. National Historic Preservation Act of 1966 (Section 106) – 54 U.S.C. § 306108
- f. Archeological and Historic Preservation Act of 1974 – 54 U.S.C. §§ 312501-312508
- g. Native American Graves Protection and Repatriation Act – 25 U.S.C. § 3001 et seq.
- h. Clean Air Act, P.L. 90-148, as amended – 42 U.S.C. § 7401 et seq.
- i. Clean Water Act, as amended – 33 U.S.C. § 1251 et seq.
- j. Endangered Species Act, P.L. 93-205, as amended – 16 U.S.C. § 1536 et seq.
- k. Coastal Zone Management Act, P.L. 92-583, as amended – 16 U.S.C. § 1451 et seq.
- l. Flood Disaster Protection Act of 1973, Section 102(a) – 42 U.S.C. § 4012a
- m. Age Discrimination Act of 1975 – 42 U.S.C. § 6101 et seq.
- n. American Indian Religious Freedom Act, as amended – P.L. 95-341
- o. Sections 523 and 527 of the Public Health Service Act of 1912, as amended – 42 U.S.C. §§ 290dd–290dd-2
- p. Architectural Barriers Act of 1968 – 42 U.S.C. § 4151 et seq.
- q. Power Plant and Industrial Fuel Use Act of 1978, P.L. 100-42, Section 403 – 42 U.S.C. § 8373
- r. Contract Work Hours and Safety Standards Act – 40 U.S.C. § 3701 et seq.
- s. Copeland Anti-kickback Act, as amended – 18 U.S.C. § 874 and 40 U.S.C. § 3145
- t. National Environmental Policy Act of 1969 – 42 U.S.C. § 4321 et seq.
- u. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271 et seq.
- v. Single Audit Act of 1984 – 31 U.S.C. § 7501 et seq.
- w. Americans with Disabilities Act of 1990 – 42 U.S.C. § 12101 et seq.
- x. Title IX of the Education Amendments of 1972, as amended – 20 U.S.C. §§ 1681–1683 and §§ 1685–1687
- y. Section 504 of the Rehabilitation Act of 1973, as amended – 29 U.S.C. § 794
- z. Title VI of the Civil Rights Act of 1964 – 42 U.S.C. § 2000d et seq.
- aa. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. § 1352
- bb. Freedom of Information Act, as amended – 5 U.S.C. § 552
- cc. Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. § 1801 et seq.
- dd. Farmland Protection Policy Act of 1981 – 7 U.S.C. § 4201 et seq.
- ee. Noise Control Act of 1972 – 42 U.S.C. § 4901 et seq.
- ff. Fish and Wildlife Coordination Act of 1956 – 16 U.S.C. § 661 et seq.
- gg. Section 9 of the Rivers and Harbors Act and the General Bridge Act of 1946 – 33 U.S.C. §§ 401 and

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- hh. Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. § 303
- ii. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended – 42 U.S.C. §§ 9601–9657
- jj. Safe Drinking Water Act – 42 U.S.C. §§ 300f–300j-26
- kk. The Wilderness Act – 16 U.S.C. §§ 1131–1136
- ll. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 – 42 U.S.C. § 6901 et seq.
- mm. Migratory Bird Treaty Act – 16 U.S.C. § 703 et seq.
- nn. The Federal Funding Transparency and Accountability Act of 2006, as amended (Pub. L. 109-282, as amended by Section 6202 of Public Law 110-252)
- oo. Cargo Preference Act of 1954 – 46 U.S.C. § 55305
- pp. Section 889 of the John D. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232
- qq. Efficient Environmental Reviews – 23 U.S.C. § 139
- rr. Grant Conditions – 49 U.S.C. § 22905
- ss. Build America, Buy America Act – Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298
- tt. Bringing In and Harboring Certain Aliens – 8 U.S.C. § 1324
- uu. Aiding or Assisting Certain Aliens to Enter – 8 U.S.C. § 1327

#### **EXECUTIVE ORDERS**

- a. Executive Order 11990 – Protection of Wetlands
- b. Executive Order 11988 – Floodplain Management
- c. Executive Order 12372 – Intergovernmental Review of Federal Programs
- d. Executive Order 12549 – Debarment and Suspension
- e. Executive Order 14005 – Ensuring the Future is Made in All of America by All of America's Workers
- f. Executive Order 14025 – Worker Organizing and Empowerment
- g. Executive Order 14149 – Restoring Freedom of Speech and Ending Federal Censorship
- h. Executive Order 14154 – Unleashing American Energy
- i. Executive Order 14168 – Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government
- j. Executive Order 14173 – Ending Illegal Discrimination and Restoring Merit-Based Opportunity

#### **GENERAL FEDERAL REGULATIONS**

- a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – 2 CFR Parts 200, 1201
- b. Non-procurement Suspension and Debarment – 2 CFR Parts 180, 1200
- c. Investigative and Enforcement Procedures – 14 CFR Part 13
- d. Procedures for predetermination of wage rates – 29 CFR Part 1
- e. Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States – 29 CFR Part 3
- f. Labor standards provisions applicable to contracts governing federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act) – 29 CFR Part 5
- g. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements) – 41 CFR Parts 60 et seq.



- h. New Restrictions on Lobbying – 49 CFR Part 20
- i. 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, including any amendments thereto
- j. Uniform relocation assistance and real property acquisition for Federal and Federally assisted programs – 49 CFR Part 24
- k. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance – 49 CFR Part 25
- l. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance – 49 CFR Part 27
- m. DOT's implementation of DOJ's ADA Title II regulations compliance procedures for all programs, services, and regulatory activities relating to transportation under 28 CFR Part 35
- n. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 CFR Part 28
- o. Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors – 49 CFR Part 30
- p. Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) – 49 CFR Part 32
- q. DOT's implementing ADA regulations for transit services and transit vehicles, including the DOT's standards for accessible transportation facilities in Part 37, Appendix A – 49 CFR Parts 37 and 38
- r. Environmental Impact and Related Procedures – 23 CFR Part 771
- s. Procedures Implementing Section 4(f) of the Department of Transportation Act – 23 CFR Part 774

Specific assurances required to be included in the Agreement by any of the above laws, regulations, or circulars are hereby incorporated by reference into this Agreement.



U.S. Department of Transportation  
**Federal Railroad Administration**

## EXHIBIT B: ADDITIONAL STANDARD TERMS

**EXHIBIT B.1: TITLE VI ASSURANCES****TITLE VI ASSURANCE**  
**Implementing Title VI of the Civil Rights Act of 1964, as amended****ASSURANCE CONCERNING NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES  
RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE**

(Implementing the Rehabilitation Act of 1973, as amended, and the Americans With Disabilities Act, as amended)

49 CFR Parts 21, 25, 27, 37 and 38

**The United States Department of Transportation (USDOT)****Standard Title VI/Non-Discrimination Assurances****DOT Order No. 1050.2A**

By signing and submitting the Application and by entering into this Agreement, the Recipient **HEREBY AGREES THAT**, as a condition to receiving Federal financial assistance from the Federal Railroad Administration (FRA), it is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 Stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR Part 21, including any amendments thereto (entitled *Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 CFR Section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the “Acts” and “Regulations,” respectively.

**General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity,” for which the Recipient receives Federal financial assistance from DOT, including FRA.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

### **Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted program:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR Part 21, including any amendments thereto, will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with the Grant and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*“The Recipient, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”*

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.



7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Recipient also agrees to comply (and require any sub-recipients, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing FRA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by FRA. You must keep records, reports, and submit the material for review upon request to FRA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the FRA under this Agreement. This ASSURANCE is binding on the Recipient, other recipients, sub-recipients, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the program or project funded under this Agreement.

## APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally assisted programs of the U.S. Department of Transportation, Federal Railroad Administration (FRA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21, including any amendments thereto.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or FRA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or FRA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or FRA may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The



contractor will take action with respect to any subcontract or procurement as the Recipient or FRA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## APPENDIX B

### CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Specific Assurance 4:

**NOW, THEREFORE**, the U.S. Department of Transportation as authorized by law and upon the condition that the Recipient will accept title to the lands and maintain the project constructed thereon in accordance with the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021), 23 U.S.C. § 117 and the policies and procedures prescribed by the Federal Railroad Administration (FRA) of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, including any amendments thereto, pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

#### (HABENDUM CLAUSE)

**TO HAVE AND TO HOLD** said lands and interests therein unto Recipient and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the Recipient, its successors and assigns.

The Recipient, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the Recipient will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, including any amendments thereto, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

## APPENDIX C

### CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Recipient pursuant to the provisions of Specific Assurance 7(a):

- A. The (Recipient, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
  - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (Recipient, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, Recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Recipient and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

## APPENDIX D

### CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by Recipient pursuant to the provisions of Specific Assurance 7(b):

- A. The (Recipient, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (Recipient, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, Recipient will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, Recipient will there upon revert to and vest in and become the absolute property of Recipient and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

## APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 Stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21, including any amendments thereto.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex) (as applicable);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- The Civil Rights Restoration Act of 1987, (P.L. 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131–12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 et seq.).

**EXHIBIT B.2: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS****2 CFR Parts 180 and 1200**

These assurances and certifications are applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FRA approval or that is estimated to cost \$25,000 or more—as defined in 2 CFR Parts 180 and 1200.

By signing and submitting the Application and by entering into this Agreement, the Recipient is providing the assurances and certifications for First Tier Participants and Lower Tier Participants, as set out below.

**1. Instructions for Certification – First Tier Participants:**

- a. The prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "civil judgment," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a Recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a Recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers to any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment, including a civil settlement, rendered against them for 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; violation of Federal or State antitrust

statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

## **2. Instructions for Certification – Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FRA approval or estimated to cost \$25,000 or more – 2 CFR Parts 180 and 1200)

a. The prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms “covered transaction,” “civil settlement,” “debarred,” “suspended,” “ineligible,” “participant,” “person,” “principal,” and “voluntarily excluded,” as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a Recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a Recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**EXHIBIT B.3: REQUIREMENTS REGARDING DELINQUENT TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW**

As required by Sections 744 and 745 of Title VII, Division E of the Consolidated Appropriations Act, 2022, Pub. L. No. 117-103 (Mar. 15, 2022), and implemented through USDOT Order 4200.6, the funds provided under this award shall not be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that:

- (1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless a Federal agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or
- (2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless a Federal agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government.

The Recipient therefore agrees:

1. **Definitions.** For the purposes of this exhibit, the following definitions apply:

**“Covered Transaction”** means a transaction that uses any funds under this award and that is a contract, memorandum of understanding, cooperative agreement, grant, loan, or loan guarantee.

**“Felony Conviction”** means a conviction within the preceding 24 months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the United States Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. 3559.

**“Participant”** means the Recipient, an entity who submits a proposal for a Covered Transaction, or an entity who enters into a Covered Transaction.

**“Tax Delinquency”** means an 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.

2. **Mandatory Check in the System for Award Management.** Before entering a Covered Transaction with another entity, a Participant shall check the System for Award Management (the **“SAM”**) at <http://www.sam.gov/> for an entry describing that entity.
3. **Mandatory Certifications.** Before entering a Covered Transaction with another entity, a Participant shall require that entity to:

- (1) Certify whether the entity has a Tax Delinquency; and
- (2) Certify whether the entity has a Felony Conviction.

**4 Prohibition. If**

- (1) the SAM entry for an entity indicates that the entity has a Tax Delinquency or a Federal Conviction;
- (2) an entity provides an affirmative response to either certification in section 3; or
- (3) an entity's certification under section 3 was inaccurate when made or became inaccurate after being made

then a Participant shall not enter or continue a Covered Transaction with that entity unless the USDOT has determined in writing that suspension or debarment of that entity are not necessary to protect the interests of the Government.

**5. Mandatory Notice to the USDOT.**

- (a) If the SAM entry for a Participant indicates that the Participant has a Tax Delinquency or a Felony Conviction, the Recipient shall notify the USDOT in writing of that entry.
- (b) If a Participant provides an affirmative response to either certification in section 1, the Recipient shall notify the USDOT in writing of that affirmative response.
- (c) If the Recipient knows that a Participant's certification under section 1 was inaccurate when made or became inaccurate after being made, the Recipient shall notify the USDOT in writing of that inaccuracy.

**6. Flow Down.** For all Covered Transactions, including all tiers of subcontracts and subawards, the Recipient shall:

- (1) require the SAM check in section 2;
- (2) require the certifications in section 3;
- (3) include the prohibition in section 4; and
- (4) require all Participants to notify the Recipient in writing of any information that would require the Recipient to notify the USDOT under section 5.

#### EXHIBIT B.4: RECIPIENT POLICY TO BAN TEXT MESSAGING WHILE DRIVING

(a) *Definitions.* The following definitions are intended to be consistent with the definitions in DOT Order 3902.10, Text Messaging While Driving (Dec. 30, 2009) and Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving (Oct. 1, 2009). For clarification purposes, they may expand upon the definitions in the executive order.

For the purpose of this Term B.4, “**Motor Vehicles**” means any vehicle, self-propelled or drawn by mechanical power, designed and operated principally for use on a local, State or Federal roadway, but does not include a military design motor vehicle or any other vehicle excluded under Federal Management Regulation 102-34-15.

For the purpose of this Term B.4, “**Driving**” means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic congestion, a traffic signal, a stop sign, another traffic control device, or otherwise. It does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

For the purpose of this Term B.4, “**Text messaging**” means reading from or entering data into any handheld or other electronic device (including, but not limited to, cell phones, navigational tools, laptop computers, or other electronic devices), including for the purpose of Short Message Service (SMS) texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless this practice is prohibited by State or local law. The term also does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to remain stationary.

For the purpose of this Term B.4, the “**Government**” includes the United States Government and State, local, and tribal governments at all levels.

(b) *Workplace Safety.* In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving (Oct. 1, 2009) and DOT Order 3902.10, Text Messaging While Driving (Dec. 30, 2009), the Recipient, subrecipients, contractors, and subcontractors are encouraged to:

(1) adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving—

(i) Company-owned or -rented vehicles or Government-owned, leased or rented vehicles; or

(ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.

(2) Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as—

(i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(c) *Subawards and Contracts.* To the extent permitted by law, the Recipient shall insert the substance of this exhibit, including this paragraph (c), in all subawards, contracts, and subcontracts under this award that exceed the micro-purchase threshold, other than contracts and subcontracts for the acquisition of commercially available off-the-shelf items.

**EXHIBIT B.5: EQUIVALENT LABOR PROTECTIONS UNDER 49 U.S.C. 22905(c)(2)(B)**

This Exhibit provides guidance on the protective arrangements equivalent to the protective arrangements established under Section 504 of the Railroad Revitalization Reform Act of 1976, with respect to employees affected by actions taken in connection with a Project financed in whole or in part with financial assistance subject to 49 U.S.C. § 22905(c)(2)(B). Fluctuations and changes in volume or character of employment brought about solely by other causes are not within the scope of this Exhibit.

**1. Definitions.** Whenever used in this Exhibit, capitalized terms shall have the meanings below:

(a) “Average Monthly Compensation” means the total compensation received by a Displaced Employee or a Dismissed Employee during the last twelve (12) months in which they were employed immediately preceding the date of their displacement or dismissal, divided by twelve (12). The Average Monthly Compensation shall be adjusted to reflect subsequent general wage increases.

(b) “Average Monthly Time” means the total number of hours worked by a Displaced Employee during the last twelve (12) months in which they were employed immediately preceding the date of their displacement, divided by twelve (12).

(c) “Day” means one 24-hour calendar day (including holidays and weekends) for purposes of calculating deadlines and other timeframes in this Exhibit.

(d) “Displaced Employee” means a Protected Employee who remains employed by a Railroad but, as a result of a Project, is placed in a worse position with respect to compensation and rules governing working conditions. A Protected Employee’s status as a Displaced Employee begins on the date said employee is harmed.

(e) “Dismissed Employee” means a Protected Employee who: (1) as a result of a Project, is deprived of employment with the Railroad because (i) the Railroad eliminates the Protected Employee’s position, or (ii) the Railroad eliminates another employee’s position (and that employee’s exercise of seniority rights results in the Protected Employee’s inability to secure another position by the exercise of the Protected Employee’s seniority rights); and (2) is unable to secure another position by exercise of their seniority rights. A Protected Employee’s status as a Dismissed Employee begins on the date said employee is deprived of employment.

(f) “Project” means any action financed in whole or in part with financial assistance subject to 49 U.S.C. § 22905(c)(2)(B).

(g) “Protected Employee” means an employee of a Railroad who is affected by actions taken pursuant to a Project, whether the Project is initiated by a Railroad or a Recipient. If a Railroad rearranges or adjusts its forces in anticipation of a Project with the purpose or effect of depriving an employee of benefits to which they otherwise would have become entitled under this Exhibit, then that employee is a Protected Employee under this Exhibit. An employee’s status as a Protected Employee shall continue for the duration of the applicable Protective Period. An employee who solely benefitted as a result of a Project shall not be a Protected Employee under this Exhibit.

(h) “Protective Period” means that period during which a Displaced Employee or a Dismissed Employee is provided the protections described in this Exhibit. The Protective Period begins

on the date an employee of a Railroad is displaced or dismissed and ends after six (6) years. However, the Protective Period for any particular employee shall not continue longer than the period of time the Railroad employed the employee prior to the date of their displacement or dismissal. For purposes of this Exhibit, an employee's length of service shall be determined in accordance with the provisions of Section 7(b) of the Washington Job Protection Agreement of May 1936, as amended.

(i) "Recipient" means any person or entity receiving financial assistance subject to the requirements of 49 U.S.C. § 22905(c), including grantees, subrecipients, contractors, and subcontractors.

(j) "Railroad" means (1) a railroad carrier as defined in 49 U.S.C. § 20102(3), or (2) any person deemed a rail carrier pursuant to 49 U.S.C. § 22905(b).

## **2. Flow Down.**

(a) In accepting financial assistance for a Project, the Recipient is responsible for ensuring the compliance with the protections provided in this Exhibit. The Recipient shall make the acceptance of this Exhibit a condition of any new contract (or incorporate its terms into any existing contract by amendment) that uses funds subject to the requirements of 49 U.S.C. § 22905(c). These conditions shall apply to a Recipient, any Railroad and any contractor of any tier with which the Recipient contracts using funds subject to the requirements of 49 U.S.C. § 22905(c).

(b) The Recipient shall require in an agreement (either in a new agreement or as an amendment to an existing agreement) with a Railroad owning the right-of-way to be improved by a Project that the Railroad notify its employees (or their representatives) of the Project being funded with financial assistance subject to 49 U.S.C. § 22905(c) and the applicability of these protections.

(c) Any Railroad employee (or their representatives) may notify a Recipient of a dispute or controversy relating to the requirements of this Exhibit to ensure compliance with 49 U.S.C. § 22905(c)(2)(B).

## **3. Collective Bargaining Agreements.**

(a) **Existing Agreements.** The rates of pay, rules, working conditions, and all collective bargaining and other rights, privileges, and benefits (including continuation of pension rights and benefits) of a Railroad's employees under applicable laws, regulations, and/or existing collective bargaining agreements shall be preserved and remain applicable unless changed by future collective bargaining agreements or applicable statutes or regulations. As applied to the regulation of subcontracting by the Railroads of a Project, the provisions of this section shall mean that a determination of whether or not such work validly may be subcontracted by a Railroad shall not be affected by the fact that the work is being financed by funds subject to the requirements of 49 U.S.C. § 22905(c)(2)(B). Nothing in this Exhibit shall be construed as depriving any Railroad employee of any rights or benefits or eliminating any obligations that such employee may have under any existing contractual or statutory arrangement, including job security agreements, protective conditions, or arrangements.

(b) **Election by Protected Employee.** Where a Protected Employee is eligible for protections under both this Exhibit and another contractual or statutory arrangement, the Protected Employee shall elect between the protection under this Exhibit and protection under such other arrangement. After

such an election, the Protected Employee shall be protected only by the arrangement that they elect. The Protected Employee shall not be entitled to any protection or benefit (regardless of whether such benefit is duplicative) under the arrangement that they do not elect. However, if the elected protection expires pursuant to the terms of the arrangement that governs the elected protection, the Protected Employee is entitled to protection under the arrangement not originally elected for the remainder, if any, of the Protective Period.

#### **4. Change in Operations, Services, Facilities, or Equipment.**

(a) **Notice.** When a Railroad contemplates a change or changes in its operations, services, facilities, or equipment as a result of a Project, which may cause the dismissal or displacement of Protected Employees or rearrangement of forces involving such employees, it shall give at least sixty (60) days' written notice of such intended changes to both Protected Employees and their duly authorized representatives (if applicable). Such notice shall contain a full and adequate description of the proposed changes, including an estimate of the number of Protected Employees of each class affected by the intended changes.

(b) **Negotiations.**

(i) **Initiation of Negotiation.** Within sixty (60) days after the Railroad issues a notice under Section 4(a) of this Exhibit, the Railroad or the Protected Employees (or their representatives) may, by written notice to the other party, request a meeting and opportunity to negotiate an agreement with respect to the application of the terms and conditions of this Exhibit. These negotiations shall commence within fourteen (14) days from the receipt of such request.

(ii) **Subject of Negotiations.** Each change to rail operations, services, facilities, infrastructure, or equipment (including rights-of-way, track, and signal and crossing systems) that may result in dismissal or displacement of Protected Employees or rearrangement of forces involving such employees shall be subject to review and negotiation by the parties, but only to the extent necessary to ensure compliance with this Exhibit. For any contemplated rearrangement of rail forces, the Railroad and the representative(s) of the Protected Employees shall agree on the method of selection of employees to be moved, and the assignment of those employees to new roles.

(c) **Arbitration.** If the Railroad and the representative(s) of the Protected Employees fail to agree within forty-five (45) days from the initial meeting and opportunity to negotiate, either party may submit the dispute for arbitration in accordance with the following procedures:

(i) **Notice & Selection of Arbitrator.** Within ten (10) days after either party has notified the other in writing of their desire to submit the dispute for arbitration, the parties shall select a neutral arbitrator. If the parties cannot agree upon the selection of said arbitrator, then the parties shall submit a request to the National Mediation Board to appoint an arbitrator. In either case, a hearing shall be scheduled no later than thirty (30) days after an arbitrator has been appointed.



(ii) **Binding Decision.** The decision of the arbitrator shall be final, binding, and conclusive and shall be rendered within thirty (30) days from the date of the commencement of the hearing of the dispute.

(iii) **Expenses.** The salary and expenses of the arbitrator shall be borne equally by the parties to the proceeding; all other expenses shall be paid by the party incurring them.

(d) **Implementation.** If a notice is issued under Section 4(a), the Railroad shall not implement such a change or changes until: (i) sixty (60) days after the notice in accordance with Section 4(a), if no party requests a meeting and opportunity to negotiate; (ii) the parties reach agreement pursuant to Section 4(b), if a party requests a meeting and opportunity to negotiate; or (iii) a referee has rendered a decision pursuant to Section 4(c).

## **5. Protections for Displaced Employees**

### **(a) Displacement Allowances.**

(i) **In General.** If a Displaced Employee is unable, in the normal exercise of such employee's seniority rights under existing agreements, rules and practices, to obtain a position that is compensated equal to or exceeding the compensation the Displaced Employee received in the position from which such employee was displaced, then the Displaced Employee shall, during the Protective Period, be paid a monthly displacement allowance equal to the difference between the monthly compensation received by the Displaced Employee in the position in which such employee is retained and the Average Monthly Compensation received by the Displaced Employee in the position from which such employee was displaced (the "Displacement Allowance").

(ii) **Application of Displacement Allowance.** If a Displaced Employee's compensation in that employee's retained position is less in any month in which such employee performs work than the Average Monthly Compensation, then the Displaced Employee shall be paid the difference between the current compensation and the Average Monthly Compensation. However, the Displacement Allowance shall be reduced by the Displaced Employee's time lost as a result of voluntary absences, to the extent that the Displaced Employee is not available for service equivalent to the Displaced Employee's Average Monthly Time. If, on the other hand, the Displaced Employee, in such employee's retained position, works in excess of the Average Monthly Time in any given month, then the Displaced Employee shall be additionally compensated for such excess time at the rate of pay of the employee's retained position. If a Displaced Employee fails to exercise their seniority rights to secure another position available to the employee which does not require a change in such employee's place of residence, to which the employee is entitled under the working agreement, and which carries a rate of pay and compensation exceeding those of the position that the employee elects to retain, then the Displaced Employee shall thereafter be treated for the purposes of this section as occupying the position such employee elects to decline.

(iii) **Early Expiration.** 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 justifiable cause.

(b) **Moving Expenses.** Any Protected Employee retained in the service of a Railroad, or who is later restored to service after being entitled to receive a Dismissal Allowance, and is required to change the point of such employee's employment as a result of the Project, and within the employee's Protective Period is required to move the employee's place of residence, shall be reimbursed for all expenses of moving the employee's household and other personal effects, including travel expenses, temporary living expenses, and any actual wage loss during the time necessary to make the move, and for a reasonable time thereafter, not to exceed five (5) days.

(i) **Prior Agreement.** The exact extent of the responsibility of a Railroad under this Section and the ways and means of transportation shall be agreed upon in advance by the Railroad and the Protected Employee or their representatives.

(ii) **Exception.** Changes in residence that are not a result of a Project, which are made after the initial change and that grow out of the normal exercise of seniority rights, are not within the purview of this Section.

(iii) **Furloughed Employees.** The Railroad shall, to the same extent provided above, assume the moving expenses outlined in Section 5(b) for an employee furloughed within three (3) years after changing such employee's point of employment as a result of a Project, who elects to move their place of residence back to their original point of employment.

(iv) **Reimbursement.** A claim for reimbursement shall be paid under the provisions of this Section within sixty (60) days after it is submitted, unless disputed by the Railroad, but no claim shall be paid if presented to the Railroad more than ninety (90) days after the date on which the expenses were incurred.

(c) **Losses from Home Sale or Contract Termination.** Any Displaced Employee who is retained in the service of a Railroad (or who is later restored to service after being entitled to receive a dismissal allowance), and who is required to change the point of such employee's employment during the Protective Period as a result of a Project, is entitled to the following:

(i) **Home Sale for Less Than Fair Market Value.** If the Displaced Employee owns their place of residence in the locality from which such employee is required to move, then at the Displaced Employee's option, the Railroad shall reimburse the Displaced Employee for the difference between the actual sale price and the fair market value of the employee's place of residence. The Railroad shall pay such difference within sixty (60) days after the Displaced Employee has filed a claim for such loss in accordance with Section 5(c)(vi), unless a controversy arises as to which Section 5(c)(vii) applies. In each case, the fair market value of the home in question shall be determined without consideration of the Project. The Railroad shall in each instance be afforded an opportunity to purchase the home at such fair market value before it is sold by the Displaced Employee to any other person.

(ii) **Election to Receive Closing Costs.** The Displaced Employee may elect to waive the provisions of Section 5(c)(i) and to receive, in lieu thereof, an amount equal to the closing costs that are customarily paid for and assumed by a seller of real estate in the jurisdiction in which the employee's residence is located. Such costs shall include customary fees paid to a licensed realtor (not to exceed six percent (6%) of the final sale price) and any prepayment penalty required by any mortgagor or beneficiary of a deed of trust. Such costs shall not include



the payment of any mortgage discount points or similar interest discount fees by the Displaced Employee.

(iii) Pending Contract to Purchase. If a Displaced Employee has entered into a contract to purchase a place of residence, but due to a Project must cancel that contract, the Railroad shall indemnify the Displaced Employee against any losses due to such cancellation, and shall relieve the Displaced Employee from any further obligation under the contract.

(iv) Unexpired Lease. If the Displaced Employee holds an unexpired lease of a dwelling as the employee's primary place of residence, and the Displaced Employee must cancel the lease due to a Project, the Railroad shall indemnify the Displaced Employee from all costs and liability arising from said cancellation.

(v) Exclusions. Any change in residence that is not due to or caused by a Project, or that resulted from the normal exercise of a Protected Employee's seniority rights, shall not be within the purview of this Section.

(vi) Notification of Claims. A Displaced Employee shall notify, in writing, the Railroad of such employee's claim arising from this Section 5(c) within one (1) year of the date the Displaced Employee's claim accrues.

(vii) Home Value Disagreements. In the event of disagreement between a Railroad and a Displaced Employee as to the value of a Displaced Employee's claim, either party (or their representatives) may request, in writing, a joint conference to resolve the disagreement.

A. Real Estate Appraisers. If the parties are unable to resolve the disagreement, either party may refer the disagreement to two licensed real estate appraisers, one of whom shall be selected by the Displaced Employee (or such employee's representatives), and one of whom shall be selected by the Railroad. If the two selected real estate appraisers are unable to agree on a valuation within thirty (30) days, the selected real estate appraisers shall designate (or agree to a method by which to select) a third licensed real estate appraiser within ten (10) days. If unable to agree on a selection, either party may request the National Mediation Board to designate within twenty (20) days a third licensed real estate appraiser. A decision by two of the three licensed real estate appraisers shall be required to determine the value in dispute. Said decision shall be final and conclusive.

B. Payment of Expenses. The salary and expenses of the third or neutral appraiser 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) Failure to Exercise Seniority Rights. If a Displaced Employee is able but does not exercise such employee's seniority rights to secure another position that does not require a change in the employee's primary place of residence, the Displaced Employee shall not be entitled to moving expenses or protections due to the sale of a home outlined in Sections 5(b)&(c).



**6. Protections for Dismissed Employees.**

(a) **Dismissal Allowance.** A Dismissed Employee shall be paid a monthly dismissal allowance from the date they are deprived of employment through the Protective Period.

(i) **Monthly Dismissal Allowance Calculation.** The monthly dismissal allowance shall be equivalent to the Average Monthly Compensation received by the Dismissed Employee in the last twelve (12) months of employment prior to the employee's dismissal.

(ii) **Submission of Claim.** A claim for the initial month of a dismissal allowance shall be paid within ninety (90) days and a claim for a subsequent month shall be paid within sixty (60) days after the claim is filed by the Dismissed Employee, unless the claim is disputed by the Railroad pursuant to Section 8 of this Exhibit.

(iii) **Reduction or Suspension of Dismissal Allowance.** If a Dismissed Employee accepts new employment (or reemployment by the dismissing Railroad) during the Protective Period, the dismissal allowance shall be reduced such that the accepted monthly compensation at the then-current position (including any unemployment insurance compensation received) plus the dismissal allowance is equivalent to the Dismissed Employee's Average Monthly Compensation. If the compensation of the Dismissed Employee's then-current employment is greater than the dismissal allowance, the dismissal allowance shall be suspended. Such reduction or suspension shall continue for the duration of the Protective Period, unless and until the Dismissed Employee's then-current compensation is reduced or eliminated. Prior to dismissal, such Dismissed Employee (or their representative) and the dismissing Railroad shall agree upon a procedure by which such Railroad shall be informed of the earnings and benefits of such Dismissed Employee in their new position of employment.

(iv) **Early Termination.** The dismissal allowance shall cease prior to the expiration of the Protective Period in the event of the Dismissed Employee's resignation, death, retirement, dismissal for justifiable cause under existing agreements, failure without good cause to return to service after being notified in accordance with an applicable working agreement, or failure without good cause to accept a comparable position that does not require a change of residence, for which the Dismissed Employee is qualified and eligible with the Railroad from which such employee was dismissed after being notified, if the employee's return does not infringe upon employment rights of other employees under a working agreement.

(b) **Separation Allowance.** A Dismissed Employee may, at such employee's option, within seven (7) days of dismissal or an arbitration award establishing the employee's status as a Dismissed Employee, resign and (in lieu of all other benefits and protections provided in this Exhibit) accept a lump sum payment computed in accordance with Section 9 of the Washington Job Protection Agreement of May 1936, as amended.

(c) **Priority of Employment or Re-Employment.** Any Protected Employee whose employment is terminated or who is furloughed as a result of a Project shall, if they so request, be granted priority of employment or re-employment to fill a position comparable to that which they held on the Railroad (even if in a different craft or class), so long as they are qualified, or by training or retraining can become physically and mentally qualified, for the position. However, such priority of

employment or re-employment must not be in contravention of any relevant collective bargaining agreements.

(i) **Training or Re-Training.** In the event such training or retraining is requested by a Protected Employee pursuant to Section 6(c), the Railroad shall provide such training or retraining at no cost to the Protected Employee.

(ii) **Waiver of Protections.** If a Protected Employee who has made a request under Section 6(c) fails without good cause within ten (10) days to accept an offer of a comparable position for which such employee has satisfactorily completed such training, the Protected Employee shall, upon the expiration of such ten (10) day period, forfeit all rights and benefits under this Exhibit.

**7. Fringe Benefits.** No Protected Employee shall be deprived during the Protective Period of any (non-salary) rights, privileges, or benefits attached to such employee's previous employment under the terms and conditions of an existing employment agreement (including, but not limited to, free transportation, hospitalization, pensions, insurance, or vacation benefits), so long as such rights, privileges, or benefits continue to be accorded to other employees of the Railroad, in active service or on furlough as the case may be, to the extent that such rights, privileges, or benefits can be so maintained under present authority of law, corporate action, or through future authorization.

**8. Arbitration of Disputes.**

(a) **Scope.** Any dispute under these conditions not settled by the relevant parties will be resolved in arbitration as provided herein. In the event a Railroad and the Protected Employee(s) (or their representatives) cannot settle a dispute or controversy with respect to the interpretation, application, or enforcement of any provision of this Exhibit (other than those Sections of this Exhibit that provide for another means of dispute resolution) within thirty (30) days after the dispute arises, either party may refer the dispute to an arbitration committee. The affected Protected Employee(s) (or their representatives) may notify a Recipient of a dispute or controversy under this Section 8 to ensure compliance with 49 U.S.C. § 22905(c)(2)(B).

(b) **Notice.** The party referring the dispute to an arbitration committee shall notify the other party in writing of its intent to refer a dispute or controversy to an arbitration committee.

(c) **Selection of Members.** Within ten (10) days of receipt of the written notice, each party to the arbitration shall select one (1) member of the committee, and the members thus chosen shall select an additional, neutral member to serve as chairman. If any party fails to select its member of the arbitration committee within the prescribed time limit, the general chairman of the involved labor organization or a senior officer designated by the Railroad or the Recipient, as the case may be, shall be deemed the selected member. Should the members be unable to agree upon the appointment of the neutral member within ten (10) days, the parties shall then within an additional ten (10) days agree to a method by which a neutral member shall be appointed; failing such agreement, either party may request the National Mediation Board to designate within twenty (20) days the neutral member whose designation will be binding upon the parties.

(d) **Multiple Representatives.** In the event a dispute involves more than one labor organization, each will be entitled to a representative on the arbitration committee, in which event the Railroad or Recipient may appoint additional representatives equivalent to the number of labor

organization representatives; provided, however, that the decision in such case shall be made by the neutral member.

(e) **Decisions Binding.** The decision, by majority vote except as provided otherwise in paragraph (d) of this Section, of the arbitration committee shall be final, binding, conclusive, and rendered within forty-five (45) days after the hearing of the dispute or controversy has been concluded and the record closed.

(f) **Expenses.** The salaries and expenses of the neutral member shall be borne equally by the parties to the proceeding, and all other expenses shall be paid by the party incurring them.

**9. Classification of a Protected Employee.** In the event an employee (or their representatives) cannot settle a dispute or controversy with the Railroad or the Recipient as to whether or not a particular employee would be affected by a Project, either party may refer the dispute to an arbitration committee within thirty (30) days after the dispute arises pursuant to the arbitration procedures in Section 8. For any such dispute, the employee of a Railroad shall have the burden to identify, with reasonable specificity, the Project that allegedly affected them, and to specify the pertinent facts of that Project, including the change or changes resulting from the Project that allegedly affected them. The burden shall then shift to the Railroad or Recipient to show that factors other than a change resulting from the Project affected the employee. The employee shall prevail on this issue if it is established that the Project had an effect upon the employee, even if other factors also may have affected the employee.

**10. Resolution of Disputes for Non-Bargaining Unit Protected Employees.** Any Protected Employee who is not represented by a labor organization shall be afforded substantially the same levels of protection as are afforded to members of labor organizations under this Exhibit. In the event any dispute arises between a Railroad and an employee not represented by a labor organization with respect to the interpretation, application, or enforcement of any provision of this Exhibit that cannot be settled by the parties within thirty (30) days after the dispute arises, either party may, as an alternative to the dispute resolution procedures outlined in this Exhibit, refer the dispute within ninety (90) days after the dispute arises to the Secretary of Labor for determination. The determination of the Secretary of Labor, or their designated representative, shall be final and binding on the parties.

**11. Severability.** In the event any provision of this Exhibit is held to be invalid or otherwise unenforceable under applicable law, the remaining provisions of this Exhibit shall not be affected.

## EXHIBIT C: QUARTERLY PROJECT PROGRESS REPORTS AND RECERTIFICATIONS

Quarterly Project Progress Reports and Recertifications are available at:  
<https://railroads.dot.gov/grant-administration/reporting-requirements/fra-report>

**EXHIBIT C**  
**Request for Reimbursement Form**

Date: \_\_\_\_\_ Invoice No. \_\_\_\_\_ Partial      Final

Name of Subrecipient: \_\_\_\_\_

Contract No. - \_\_\_\_\_ File No. (Project ID No.) \_\_\_\_\_

Project Name: \_\_\_\_\_

|                                          |  |
|------------------------------------------|--|
| Project Implementation Date              |  |
| Anticipated Construction Completion Date |  |
| Percentage of Construction Complete      |  |

|                  | Project Charges | SUBRECIPIENT's Share<br>____% | Recipient Share<br>____% |
|------------------|-----------------|-------------------------------|--------------------------|
| Previous Charges | _____           | _____                         | _____                    |
| This Invoice     | _____           | _____                         | _____                    |
| Total to Date    | _____           | _____                         | _____                    |

Payment Amount Due (SUBRECIPIENT): \$ \_\_\_\_\_

Authority: Agreement between BIRMINGHAM and (Subrecipient) dated  
\_\_\_\_\_

Certification: I certify as an authorized representative of (Subrecipient) that the costs invoiced are, to the best of my knowledge, true, correct and in accordance with the terms and conditions of the above dated Agreement.

\_\_\_\_\_  
(Subrecipient's Authorized Signature)

**Distribution of Fees this Period**

| Engineers, Contractors, Major Suppliers | Total Dollars this Period |
|-----------------------------------------|---------------------------|
| 1.                                      |                           |
| 2.                                      |                           |
| 3.                                      |                           |
| 4.                                      |                           |
| <b>TOTAL</b>                            |                           |

**Note: Attach supporting documentation – copies of invoices from contractors, major suppliers and cancelled check(s) indicating payment made - and submit to:**

Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_