

EXHIBIT A

AMENDMENT ONE LICENSE AGREEMENT 30003564

This Amendment to License Agreement 30003564 (“Amendment”) is entered into by and between the City of Portland, by and through its Portland Parks & Recreation (hereinafter “City” or “PPR”), and Washington Park Transportation Management Association (hereinafter “TMA” or “Licensee”). The parties are collectively referred to as the “Parties” and individually as a “Party”.

Recitals:

1. Portland Parks & Recreation applied to Metro Regional Travel Options for a grant in the amount of \$200,000 for Washington Park Transportation Management Association start up activities; and
2. Metro has notified the City of Portland that it will award a grant named “Setting the Stage for Success: Washington Park Transportation Management Association Start Up” in the amount of \$200,000.


Agreed:

1. Per the grant terms in Exhibit A, Metro Grant 931983, “Setting the Stage for Success: Washington Park Transportation Management Association Start Up,” Portland Parks & Recreation will provide up to \$200,000 in grant funds to the Washington Park Transportation Management Association to achieve the objectives stated in the grant. For reimbursement of Metro and Portland Parks & Recreation expenditures by Washington Park Transportation Management Association, funds will be paid by Metro to Portland Parks & Recreation, and Portland Parks & Recreation shall pay all grant funds to Washington Park Transportation Management Association.
2. As a subrecipient of Portland Parks & Recreation for the grant, Washington Park Transportation Management Association will comply with all terms and conditions of Metro Grant 931983, attached to this Amendment as Exhibit A.
3. Except as expressly amended herein, the License Agreement 30003564 is unmodified and remains in full force and effect. In the event of a conflict between the terms of the License Agreement and this Amendment, the terms of this Amendment shall be controlling for the term of Metro Grant 931983.
4. This Amendment may be executed in counterparts, each of which shall be deemed an original and when taken together shall constitute one original document.

IN WITNESS WHEREOF, PPR and Licensee have caused their duly authorized representatives to execute this Amendment to License Agreement 30003564 in triplicate.

**PORTLAND PARK AND RECREATION
BUREAU**

**WASHINGTON PARK
TRANSPORTATION MANAGEMENT
ASSOCIATION:**

By: 
Name: Winger Jimenez
Title: Assistant Director
Date: 2/28/14

By: Ruth G. Shelly
Name: Ruth G. Shelly
Title: Board chair
Date: 2.13.14

APPROVED AS TO FORM


CITY ATTORNEY 2/26/14

EXHIBIT A



600 NE Grand Avenue
Portland, OR 97232-2736
503-797-1700

Intergovernmental Grant Agreement

Metro Grant 931983

Project: Setting the Stage for Success: Washington Park Transportation Management Association Start Up

THIS INTERGOVERNMENTAL GRANT AGREEMENT is between **Metro**, a Metropolitan Service District organized under the laws of the State of Oregon and the Metro Charter, located at 600 NE Grand Avenue, Portland, OR 97232-2736, hereinafter referred to as "**Metro**" and the **City of Portland** a municipal corporation of the State of Oregon hereinafter referred to as "**Grantee**".

A. Recitals

1. Metro is the recipient of Federal Transit Administration ("FTA") Congestion Mitigation and Air Quality (CMAQ) and Surface Transportation Program (STP) grant funds, and wishes to enter into this Agreement with the Grantee, utilizing these federal funds.
2. Metro considers the Grantee to be a subrecipient of federal funds. Funding for this project is obtained from a Grant Agreement between Metro and the FTA, utilizing Congestion Mitigation and Air Quality (CMAQ) or Surface Transportation Program (STP) funds, CFDA No. 20.507. As federal funds are involved in the Agreement, Exhibit C – Federal Clauses, Attachments A and B and Exhibit D – Department of Labor Clauses are attached hereto and by this reference made a part of this Agreement as if set forth in full.
3. The Regional Travel Options Program, hereinafter referred to as the "RTO Program" is a program of Metro designed to assist local governments and non-profit agencies in managing demand on the transportation system and increasing use of travel options.
4. Metro selected Grantee, through a competitive process, to receive partial funding for the purpose of supporting The City of Portland's program to create a Washington Park Transportation Management Association. The City of Portland along with organizations housed or working within the park, as well as surrounding neighborhood associations, are working together to create a Washington Park Transportation Management Association (WP-TMA). This program is expected to further the RTO effort toward accomplishing Regional Transportation Plan modal target of 40% non-SOV trips or higher, by the year 2040. The work plan elements outlined here are elements of a much larger Grantee work plan that is being partially funded using requested METRO RTO grant dollars for Metro fiscal years 13-14 and 14-15.

B. Effective Date and Duration

The beginning date of this Agreement is July 1, 2013, and shall remain in effect until and including June 30, 2015 unless terminated or extended as provided in this Agreement. Costs incurred on or after July 1, 2013 which are deemed allowable costs for this project, will be reimbursed once all parties have signed this Agreement and Metro has been presented with the appropriate invoice and documentation.

C. Scope of Work

Grantee shall provide all services and materials specified in the attached "Exhibit A – Scope of Work," which is incorporated into this Agreement by this reference as if set forth in full. Grantee in accordance with the Scope of Work shall provide all services and materials, in a competent and professional manner. To the extent that the Scope of Work contains additional Agreement provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.



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D. Compensation

The total Agreement amount is **NINE HUNDRED FIFTY THOUSAND AND NO/100ths DOLLARS (\$950,000.00)**. This amount includes (1) FTA funds to be dispersed to Grantee not to exceed **TWO HUNDRED THOUSAND AND NO/100ths DOLLARS (\$200,000.00)**; (2) Grantee's non federal local match of **TWENTY TWO THOUSAND EIGHT HUNDRED NINETY AND NO/100ths DOLLARS (\$22,890.00)**; and (3) an additional amount provided by Grantee of **SEVEN HUNDRED TWENTY SEVEN THOUSAND ONE HUNDRED TEN AND NO/100ths DOLLARS (\$727,110.00)**.

E. Payment

1. All invoice payments are conditional upon Metro's Project Manager approval of the Quarterly Progress Reports. Grantee shall present cost reports, reimbursement requests and progress reports to Metro's RTO Project Manager on a quarterly basis.
2. Qualified costs are direct project costs, incurred by the Grantee and personal services contractor(s) during the term of this Agreement that are eligible for federal funds. Metro shall reimburse Grantee for qualified costs for work described in Exhibit A, in accordance with:
 - OMB Circular 2 CFR 225 (formerly A-87), Cost Principles for State, Local, and Indian Tribal Governments
3. Invoices shall display one hundred percent (100%) of the total project costs incurred during the period of the invoice, and identify any required matching amounts, if applicable. If Metro requests documentation, including without limitation copies of receipts for expenditures, timesheets, or system-generated accounting reports documenting the actual expense, Metro must receive the documentation before Metro makes payment.

F. Subcontracts

1. Grantee **shall not** enter into any subcontract for any of the Services required by this Agreement without Metro's prior written consent. Upon approval by Metro of a subcontract, the parties will amend the Agreement to include provisions related to the subcontract.
2. Metro's consent to any subcontract shall not relieve Grantee of any of its duties or obligations under this Agreement. Payment under the terms of this Agreement will be made to the Grantee and subcontractors have no right to payment directly from the Metro.
3. Grantee is solely responsible for paying Grantee's subcontractors and nothing contained herein shall create or be construed to create any contractual relationship between any subcontractor and Metro.

G. Records Maintenance – Access

1. Grantee shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles ("GAAP"). In addition, Grantee shall maintain any other records pertinent to this Agreement in such a manner as to clearly document Grantee's performance.
2. Grantee acknowledges and agrees that Metro, the FTA, the Comptroller General of the United States and/or their duly authorized representatives shall have access to such fiscal records and other books, documents, timesheets, papers, plans and writings of Grantee that are pertinent to this Agreement to perform examinations and audits and make excerpts and transcripts.



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3. Grantee shall retain and keep accessible all such fiscal records, books, documents, timesheets, papers, plans, and writings for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

H. Indemnity

Grantee is an independent contractor and assumes full responsibility for the performance of the Scope of Work and the content of its work and performance. Subject to the terms and conditions of the Oregon Tort Claims Act and the Constitution of the State of Oregon, Grantee agrees to indemnify and defend Metro and hold Metro, its agents, employees and elected officials harmless from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees at trial and on appeal, arising out of or in any way connected with its performance of this Agreement.

I. Termination

Metro may terminate this Agreement after providing Grantee seven (7) days' written notice. In the event of termination, Grantee shall be entitled to payment for qualified costs incurred before the date of termination. Metro shall not be liable for indirect or consequential damages. Termination by Metro shall not waive any claim or remedies it may have against Grantee.

J. Insurance

1. Grantee shall purchase and maintain at Grantee's expense, a self insurance program or the following types of insurance covering Grantee, its employees, and agents:

- a) The most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate. The policy will include coverage for bodily injury, property damage, personal injury, contractual liability, premises and products/completed operations. Grantee's coverage will be primary as respects Metro.
- b) Automobile insurance with coverage for bodily injury and property damage and with limits not less than minimum of \$1,000,000.00 per occurrence.
- c) Workers' Compensation insurance meeting Oregon statutory requirements including Employer's Liability with limits not less than \$500,000.00 per accident or disease.

2. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSURED on Commercial General Liability and Automobile policies.

3. Grantee shall provide to Metro thirty (30) days' written notice of any material change or policy cancellation.

4. Grantee shall provide Metro with a Certificate of Insurance complying with this article upon return of the Grantee's signed Agreement to Metro. The Certificate of Insurance shall identify the Metro Grant number (931983).

K. Right to Withhold Payments

Metro shall have the right to withhold from payments due Grantee such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage or claim which may result from Grantee's performance or failure to perform under this Agreement or the failure of Grantee to make proper payment to any suppliers or subcontractors.



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L. Federal, State, and Local Law Compliance

1. Grantee shall comply with the public contracting provisions of ORS chapters 279A, 279B and 279C and the recycling provisions of ORS 279B.025 to the extent those provisions apply to this Agreement. All such provisions required to be included in this Agreement are incorporated herein by reference. Grantee shall comply with all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations.

2. This Agreement is subject to a financial assistance agreement between Metro and the Federal Transit Administration (FTA). Grantee shall comply with all applicable federal laws, regulations, executive orders, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including but not limited to the following, which are incorporated into and made a part hereof:

- the terms and conditions applicable to a "recipient" set forth in the October 1, 2012 FTA Master Agreement [FTA MA 19] between Metro and the FTA
- Circular A-133, Audits of States, Local Governments, and Nonprofit Organizations
- OMB Circular A-102, Grants and Cooperative Agreements with State and, Local Governments
- OMB Circular 2 CFR 225, Cost Principles for State, Local and Indian Tribal Governments (formerly A-87)
- FTA Circular 5010.1D, Grant Management Requirements
- FTA Circular 4220.1F, 3rd Party Procurement Requirements

3. Grantee also shall comply with federal, state, and local laws, statutes, and ordinances relative to, but is not limited to, non-discrimination, safety and health, environmental protection, waste reduction and recycling, fire protection, permits, fees and similar subjects.

M. Discrimination Prohibited

No recipient or proposed recipient of any services or other assistance under the provisions of this Agreement or any program related to this Agreement may be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this Agreement on the grounds of race, color, or national origin, 42 U.S.C. §2000d (Title VI), or on the grounds of religion, sex, ancestry, age, or disability as that term is defined in the Americans with Disabilities Act. For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the Grantee receiving funds pursuant to this Agreement.

N. Ownership of Documents and Credit to Metro

1. All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by Grantee pursuant to this Agreement are the property of Metro, and it is agreed by the parties that such documents are works made for hire. Grantee hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.

2. Grantee shall ensure that all communications tools related to work performed under this Agreement including without limitation brochures and advertisements, include language found in Exhibit B – "Partnership Requirements" which is attached hereto and by this reference made a part of this Agreement as if set forth in full.



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O. Project Information

Grantee shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Grantee shall abstain from releasing any information or project news without the prior and specific written approval of Metro.

P. Independent Contractor Status

1. Grantee shall be an independent Contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Grantee be considered an employee of Metro.
2. Grantee shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work.
3. Grantee is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement.
4. Grantee shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

Q. Assignment

Grantee may not assign or transfer this Agreement without written permission from Metro.

R. Choice of Law

The situs of this Agreement is Portland, Oregon. Any litigation over this Agreement shall be governed by the laws of the State of Oregon and shall be conducted in the Circuit Court of the State of Oregon for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.

S. No Waiver of Claims

The failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision.

T. Modification

Notwithstanding and succeeding any and all prior agreements or practices, this Agreement constitutes the entire Agreement between the parties, and may only be expressly modified in writing, signed by both parties.

U. Severability

If any clause, sentence or any other portion of the terms and conditions of this Grant Agreement becomes illegal, null or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law.



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V. No Special or Consequential Damages

Grantee expressly waives any claims against Metro regarding the Scope of Work under this Agreement. Metro's liability under this Agreement shall be limited to payment of the Grant Funds, to the extent that Grantee has fully and completely complied with all terms and conditions of this Agreement. In no event shall Metro be liable for and the Grantee specifically releases Metro from any liability for special, punitive, exemplary, consequential, incidental or indirect losses or damages (in tort, contract or otherwise) under or in respect of this Agreement or for any failure of performance related to the Scope of Work or this Agreement, however caused, whether or not arising from Metro's sole, joint or concurrent negligence.

GRANTEE, BY EXECUTION OF THIS AGREEMENT TO AGREE, HEREBY ACKNOWLEDGES THAT GRANTEE HAS READ THIS AGREEMENT TO AGREE, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

City of Portland

Metro

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: _____

Date: _____

Date: _____

DUNS #: _____

Federal ID # (EIN): _____

Grantee Congressional District: _____ Congressional District(s)

Grantee Geographic location: _____

Non Profit Status: Local Government

Name of Title VI Officer: _____

Fiscal Year: July 1 through June 30

Accounting Software: _____

Percentage of annual revenue (previous FY) from all federal sources: _____

Provide:

Articles of Incorporation and/or Bylaws/written policies by which the organization operates - N/A

Procurement Policy

Personnel Policy

Copy of most recent filed State of Oregon annual financial report - N/A

Copy of State of Oregon non-profit annual renewal - N/A

Copy of most recent A-133 audit - received

APPROVED AS TO FORM

James H. Van Dyke
9/13/13
CITY ATTORNEY



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Exhibit A – Scope of Work

Setting the Stage for Success – Washington Park Transportation Management Association Start Up

Project Description

Washington Park and its venues receive over three million visitors a year, and have an additional 3,200+ employees and volunteers who work in the park. This attendance makes Washington Park one of the most highly visited destinations in the state. Washington Park's success has resulted in a variety of transportation and parking challenges. Organizations housed or working within the park, along with surrounding neighborhood associations, are working together to create a Washington Park Transportation Management Association (WP-TMA). Portland Parks & Recreation (PP&R) and the WP-TMA will manage transportation and parking operations (including a new pay-to-park system) in Washington Park. The WP-TMA Board consists of:

- Arlington Heights Neighborhood Association
- Hoyt Arboretum Friends
- Oregon Zoo (Metro)
- Portland Children's Museum
- Japanese Garden Society of Oregon
- Portland Parks & Recreation (City of Portland)
- Sylvan Highlands Neighborhood Association
- TriMet
- World Forestry Center

In order for the WP-TMA and the planned parking and transportation improvements to be successful, the WP-TMA must become highly functional as soon as it is created. It must have the tools and resources that it needs to succeed. Portland Parks & Recreation (PP&R), along with all of the partner venues and the adjacent neighborhoods are all committed to the WP-TMA's success. To facilitate and ensure success, a new pay-to-park system will provide a stable funding source for the WP-TMA. Funds derived from the pay-to-park system will also support new parking management programs and systems, alternative mode access strategies, and outreach and communications programs. The intended outcome is development and implementation of a world-class access management system for Washington Park, its visitors, employees, and volunteers at all of its venues.

Specifically, this proposal requests funding for the following resources and tools to set the new WP-TMA up for success—this grant will provide funding to create safer, more diverse, innovative, and understandable options for getting to and through the park.

- Develop a communications plan and the tools to implement it. The communications plan will include the creation of a marketing and outreach strategy for the WP-TMA, as well as an organizational identity (a brand) that includes a logo and other graphic elements that will communicate the transportation and parking concept that signifies the work of the new organization
- Coordinate, implement, and manage the permit system associated with the new pay-to-park system that incorporates real-time tracking and survey data to create incentives for visitors, employees, and volunteers to take alternative modes of transportation. PP&R will manage the day-to-day operations of the pay-to-park system and the WP-TMA will manage the permits and other incentive programs related to this system
- Identify shuttle stop locations to maximize transit and shuttle usage, reduce congestion, and improve circulation throughout the park
- Purchase event management equipment (street barriers, traffic signs, safety vests, walkie talkies, etc.) to assume responsibility of event traffic and parking, thus freeing Washington Park venues from dealing with transportation to instead focus on their core missions

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- Collect data, including visitor, employee, and volunteer travel patterns, as well as vehicle and trail usage, to better understand impacts of programs and improve programs over time
- Create and run the WP-TMA, with the mission of creating a world-class access management system for Washington Park
- Conduct a one-year evaluation of the WP-TMA to assess and revise programs and the strategic plan for the organization

Project Goals and Expected Outcomes

The goal of this project is to develop a new program that implements a diverse and innovative package of access management tools that maximizes safe and convenient access to Washington Park and its attractions. The key objective is to transition Washington Park to a venue that values green area, is sustainable, provides expanded options for alternative transportation modes and ensures the long-term educational and financial success of each partner organization while providing a world-class experience to its patrons.

The supporting goals are to:

- Increase the use of alternative modes of transportation (i.e. non-auto trips) for access to the Park and its venues by employees, volunteers, and visitors
- Reduce the rate of daily vehicle trips to and from the park
- Minimize the instances of spillover parking into adjacent neighborhoods
- Minimize the instances of and impacts from queuing at the US 26 off-ramps to Washington Park, in partnership with Oregon Department of Transportation (ODOT)
- Avoid losses in patron attendance

The expected outcomes of this program are to provide the WP-TMA with the tools and resources it needs to succeed. First, we want to provide the WP-TMA with the communication tools to be able to effectively and efficiently communicate with over 3+ million visitors and the 3,200+ employees and volunteers who visit Washington Park every year. Secondly, we want to provide the WP-TMA with the tools it needs to manage transportation and parking on a daily basis and to be particularly effective on high visitation days; ensuring smooth, safe, and efficient arrivals and departures.

Related Outcomes

For the past few years the Directors of each of the venues in Washington Park have been meeting through a forum known as the Washington Park Alliance to discuss topics of shared interest, including transportation issues. Among other projects, they developed a list of transportation priorities that have been forwarded to the WP-TMA to develop as part of its work plan. The outcomes that follow are ones that the WP-TMA will be working on, and which reinforce, support and integrate with the planned outcomes for this grant project. They are:

- Initiate new pay-to-park system in Washington Park
- Establish mutual and measureable goals for increasing employee, volunteer, and visitor use of alternative mode options (i.e., transit, bike, walk, and rideshare)
- Optimize parking occupancy and measure performance of the parking supply, —triggering specific management strategies, especially those that transition parking demand into alternative modes
- Implement a routine program of meeting, coordination, and communication with surrounding neighborhoods
- Initiate enhanced Park shuttle that services all venues

Exhibit A – Scope of Work

- Promote transit access programs and linkages between Park & Rides and the Park through light rail and public transportation options
- Develop and conduct a coordinated transportation demand management (TDM) survey and/or focus groups with members and visitors of all venues to gauge perception of alternative modes use and viability and potential of alternative modes incentives and programs
- Coordinate a WP-TMA employee Commute Options Survey for all Park based partner employees. The survey would evaluate each venue and also provide data for a combined partner report
- Conduct a WP-TMA customer/visitor survey for all Park venues (and visitors to the Park itself). Information collected would target mode choice, vehicle occupancy, and duration of stay
- Develop and maintain a shared database to support the overall monitoring and reporting process for parking utilization, alternative mode use, visits/admissions to each venue and membership totals. Database information would be translated into an annual access/parking and TDM progress report
- Develop and launch a comprehensive WP-TMA access webpage that is provided as a link in all partner websites
- Coordinate all marketing, communications and planning related to access under a common brand that unifies strategies outlined above and is delivered, managed and coordinated through the WP-TMA
- Leverage new alternative funding resources to achieve Washington Park program goals and objectives

Evaluation Plan

The WP-TMA will work closely with Portland Parks & Recreation to conduct an evaluation of its access management program through the following activities:

- Track and report all dollars spent, in-kind donations, and other contributions
- Track and report services, outreach efforts, and record number of people visiting the venues by mode
- Conduct a survey comparable to the quarterly survey conducted by the Oregon Zoo that collects information about visitor travel mode, auto occupancy, duration of stay, as well as many other personal preferences and travel characteristics. The WP-TMA will hire an outside organization to conduct the survey (possibly Portland State University or University of Oregon, or a professional survey firm). This project includes expanding relevant portions of the Zoo survey to the entire park, so that managers can better understand and evaluate park transportation and parking behavior
- Administer an annual Commute Options Survey to all venue employees and volunteers in the park. The Oregon Zoo is the only venue that currently conducts a Commute Options Survey. This project would survey all 1,000+ staff (outside of the Oregon Zoo, permanent and temporary) and 2,200+ volunteers
- Track and categorize the nature of calls/emails to the venues regarding parking and transportation issues. Most of these calls/emails will be forwarded to the WP-TMA
- Work with ODOT to track transportation safety issues including back-up of vehicles onto US 26 and crash information
-



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- Work with TriMet to track the number of transit riders (both bus and MAX) to Washington Park
- Purchase and install approximately five traffic counters and eight trail counters to count the number of vehicles entering the park and the number trail users to better understand the number, frequency, timing, and seasonality of trail and road use
- Hire a consultant to conduct an evaluation of the WP-TMA first year of operation and report findings to the WP-TMA and grant funders. In addition, the consultant will work with the WP-TMA to incorporate the findings and recommendations into its strategic plan and work program

Project Staff

The key project team members for this project are:

Staff Name, Title	Project Role	Years Experience	% of Time
Mike Abbaté, PP&R Director	Supervisor	25	1%
Todd Lofgren, PP&R Property and Business Development Manager	Project Co-Manager	15	5%
Bryan Aptekar, PP&R West Service Zone Coordinator	Project Staff	17	20%
Maija Spencer, PP&R Washington Park Project Coordinator	Project Staff	15	100%
Mark Ross, PP&R Public Information Officer	TBD	TBD	TBD
Heather McCarey-TMA Executive Director	Project Co-Manager	TBD	100%

Note: Grantee shall notify Metro in writing of any staffing change(s) within ten (10) business days of such change. Agreement to any staff changes shall be at Metro's discretion. Metro shall notify Grantee in writing of acceptance of staff changes.

Major Project Tasks

Task 1 Communications plan and tools

- **Create a marketing and outreach plan and brand the WP-TMA** Being a new organization, the WP-TMA will need to create an easily recognizable identity (a brand) with a logo and other graphics or text that visitors, employees, volunteers, and all other users of the park can quickly and easily identify with transportation and parking related information. It will be important for the WP-TMA to create a strong brand that is easy for park users to identify and that they associate with improvements to parking and transportation within the park. The brand architecture will then be used on all WP-TMA outreach materials, including the website and applications, signage, letterhead and business cards, and other materials. The project co-managers will work with park attractions to develop a marketing and outreach plan that will include use of the website, smart phone app or mobile web site, social media (Facebook, Twitter, etc.), newsletters and listservs to conduct outreach about transportation and parking to venue members (218,000+), staff (1000+), and volunteers (2,200+), and visitors that comprise the 3+ million visits to Washington Park venues each year. The marketing and outreach plan will describe goals, objectives, and the specific activities planned to achieve the goals along with the parties responsible, timeline, and proposed budget
- **Develop an interactive website and smart phone app or mobile website** One of the first tasks the WP-TMA will do is develop an interactive website that provides real-time information about transportation, parking, and major events in the park. For the first time in the park's history, the visitor will be able to get real time information on how to get to and through the park. The website will need to communicate a variety of types of information about transportation and parking in the Park, including:

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- **Parking and transportation information for visitors** will provide information for visitors to plan their trip to the park, including the ability to check schedules and stops for TriMet and the shuttle. It will also include bike information (trails, bike parking, etc.), and hiking trail information (map of trails)
- **Parking and transportation information for visitors, employees, and volunteers** will describe transportation programs and incentives, transit and shuttle information, carpooling information, and hiking and biking information (maps and bike parking)
- **Special events information** will include special parking and transportation information for events in the park like the Summer Concert Series in the Rose Garden Amphitheater and the Summer Concert and Zoo Lights at the Oregon Zoo
- **Resources** will include downloadable vehicle, shuttle, biking, and trail maps that include parking information, as well as links to all of the attractions
- **Information about the WP-TMA** including the mission, staff, board, office location, accomplishments, newsletters, and contact information
- **Other topics to be determined** by the WP-TMA Board and new executive director

The WP-TMA may also investigate the creation of an interactive map that would work in concert with a phone application or mobile web site, giving users information about the history of the park and park attractions, parking information, major event information, and more.

Project managers will contract with an outside vendor to create a mobile app or mobile web site that will allow users to:

- Check updates on parking and transportation issues in the park
- Check TriMet (bus and MAX) schedules to and from the park
- Check shuttle schedule
- Check status of off-site parking locations
- Connect to information about park attractions within the park
- Check weather conditions at the park
- Promotions for alternative mode use (light rail, public transit, etc.). For example, deliver coupon incentives periodically to support transportation goals

Task 2 Coordination, implementation, and management of pay-to-park system

Portland Parks & Recreation is in the process of launching a pay-to-park system throughout Washington Park. Once the WP-TMA is fully established, it will serve as a coordinating entity for monitoring the parking and access system, and support PP&R in its management of the parking system. The WP-TMA's coordinating function will provide enhanced communications between all partners and better integrate transportation options into the access system.

One of the primary roles of the WP-TMA, working with PP&R, is to explore and implement demand-based pricing strategies around events at park venues, seasonality, and by-demand. The WP-TMA will conduct real-time tracking of transit and lot use, and develop strategies to communicate to visitors about how best to visit the park at any given time. The WP-TMA will work closely with all of the attractions to understand the needs of the attractions for specific events,



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activities, and use patterns that influence transportation to, through, and from Washington Park. The WP-TMA will also create and manage incentive programs for visitors, employees, and volunteers (such as periodically distributing coupons to visitors that take alternative transportation modes to visit Washington Park).

Task 3 Identification of shuttle stop locations

One of the key components of the WP-TMA's work program is to replace the diesel-run yellow school bus shuttles currently used by the Oregon Zoo, and replace the TriMet loop bus (fee), and enhance the existing TriMet bus service through the park (fee), with an alternative-fuel fleet of free shuttles that will service the entire park. While PP&R has submitted a grant application to the Oregon Department of Transportation to fund five (5) shelters, there may be other locations that would optimize the performance of the shuttle system.

This task will allow the WP-TMA to hire a landscape architect (consulting with a traffic engineer), to work with PP&R and the venues to determine the best siting locations, and explore other sites throughout the park, without sacrificing efficiency of the shuttle service.

Task 4 Event management equipment

The WP-TMA will assume coordination responsibility of managing traffic and parking during Washington Park events, including the summer visitor season, Concerts in the Park at the Rose Garden Amphitheater, Zoo Concerts, and Zoo Lights, among other events. The WP-TMA will need to purchase traffic and parking management equipment, including barricades, traffic signs, safety cones, shuttle parking signs, flashlights, walkie-talkies, and safety vests for employees and volunteers.

Task 5 Evaluation

The WP-TMA will collect a range of trail, road and parking lot use information, conduct visitor surveys two times per year (summer and off-season) and an employee survey once a year, and produce an annual report that includes the following information:

- Dollars spent, in-kind donations, and other contributions
- Description of services, outreach efforts, record number of people visiting the park/venues by mode
- Visitor information on travel mode, auto occupancy, duration of stay, as well as many other personal preferences and travel characteristics
- Commuter information (derived from the Commute Options Survey) for employees and volunteers at all park venues
- Number and topic of calls/emails to the venues regarding parking and transportation issues. Most of these calls/emails will be forwarded to the WP-TMA
- Number and nature of safety issues including back-up of vehicles onto US 26 and crash information (collected by ODOT)
- Number of transit riders (both bus and MAX) to Washington Park (collected by TriMet)
- Baseline and future changes in trail use and traffic counts (as collected by the trail and traffic counters)

Exhibit A – Scope of Work

Metro Grant 931983

Task 6 Creation of the WP-TMA (funded by non – federal Cost Share only)

The mission of the WP-TMA is to implement a diverse and innovative package of access management tools that maximize safe and convenient access to and from the Park, its institutions, and the adjacent neighborhoods. One-hundred percent of the work of the WP-TMA is devoted to access management in the park. This task represents the creation and costs associated with running the WP-TMA for the first and second years that have not already been described in Tasks 1 – 5. The staff of the WP-TMA and their collective programs and efforts are considered the non-federal Cost Share for this project. The work of PP&R staff on this project are also considered part of this project, but are not calculated in the proposed match in this grant.

Project timeline and budget

Most of the project will be completed within the first twelve (12) months of creation of the WP-TMA or receiving the grant (which ever happens last). All of the tasks will be completed within 24 months. The estimated timeline, revenue allocation and cost per task are summarized in the two tables below.

Tasks	Task Description	Schedule in project months	Grant amount estimated by task	Local Match 10.27% estimated by task (1)	Cost share estimated by task (2)	Estimated Total by task
Revenue						
1	Communications plans and tools					
1a	Marketing plan and branding	1-12	\$24,000.00		\$33,065.00	\$57,065.00
1b	Website and smart phone app or mobile website	1-12	\$60,000.00		\$1,433.00	\$61,433.00
2	Coordination, implementation, and management of pay-to-park system	1-12	\$0.00	\$22,890.00	\$105,397.00	\$128,287.00
3	Identification of shuttle stop locations	2-12	\$30,000.00		\$0.00	\$30,000.00
4	Event management equipment	1-12	\$4,870.00		\$10,130.00	\$15,000.00
5	Evaluation					
5a	Surveys	6-24	\$24,000.00		\$16,550.00	\$40,550.00
5b	Traffic and trail counters	6-12	\$22,130.00		\$17,870.00	\$40,000.00
5c	Evaluation (consultant)	12-18	\$35,000.00		\$0.00	\$35,000.00
6	Creation and operation of the WP-TMA					
6a	Personnel	1-24	\$0.00		\$93,721.00	\$93,721.00
6b	Programs	1-24	\$0.00		\$328,972.00	\$328,972.00
6c	Direct expenses	1-24	\$0.00		\$119,972.00	\$119,972.00
Totals			\$200,000.00	\$22,890.00	\$727,110.00	\$950,000.00

Note: Metro acknowledges the schedule of the project timeline and budget is an approximation used for initial planning and budgeting purposes. Any significant changes to the above schedule must be made in writing and approved in writing by the Metro project manager.

- (1) Source for local match (10.27%) will be PP&R parking meter revenue specified by City of Portland Contract Ordinance 185779, adopted Dec. 5, 2012 (am session)
- (2) Source for non-federal Cost Share will be PP&R meter revenue specified by City of Portland Contract Ordinance 185779, adopted Dec. 5, 2012 (am session)



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Exhibit A – Scope of Work

Metro Grant 931983

Tasks	Task Description	Schedule in project months	Staff-Executive Director	Staff-Program Manager	Materials & Services	Estimated Total by task
	Expense					
1	Communications plans and tools					
1a	Marketing plan and branding	1-12	\$25,000.00	\$12,000.00	\$20,065.00	\$57,065.00
1b	Website and smart phone app or mobile website	1-12	\$10,670.00	\$6,000.00	\$44,763.00	\$61,433.00
2	Coordination, implementation, and management of pay-to-park system	1-12	\$50,000.00	\$28,287.00	\$50,000.00	\$128,287.00
3	Identification of shuttle stop locations	2-12	\$21,000.00	\$9,000.00	0.00	\$30,000.00
4	Event management equipment	1-12	0.00	0.00	\$15,000.00	\$15,000.00
5	Evaluation					
5a	Surveys	6-24	\$4,500.00	\$16,000.00	\$20,000.00	\$40,550.00
5b	Traffic and trail counters	6-12	0.00	0.00	\$40,000.00	\$40,000.00
5c	Evaluation (consultant)	12-18	\$21,000.00	\$9,000.00	\$5,000.00	\$35,000.00
6	Creation and operation of the WP-TMA					
6a	Personnel	1-24	\$50,000.00	\$43,721.00	0.00	\$93,721.00
6b	Programs	1-24	0.00	0.00	\$328,972.00	\$328,972.00
6c	Direct expenses	1-24	\$13,980.00	\$5,992.00	\$100,000.00	\$119,972.00
	Totals		\$196,200.00	\$130,000.00	\$623,800.00	\$950,000.00

Note: Metro acknowledges the schedule of the project timeline and budget is an approximation used for initial planning and budgeting purposes. Any significant changes to the above schedule must be made in writing and approved in writing by the Metro project manager.

- (1) Source for local match (10.27%) will be PP&R parking meter revenue specified by City of Portland Contract Ordinance 185779, adopted Dec. 5, 2012 (am session)
- (2) Source for non-federal Cost Share will be PP&R meter revenue specified by City of Portland Contract Ordinance 185779, adopted Dec. 5, 2012 (am session)

Grantee's invoices shall include:

- Metro Grant number (931983)
- Grantee name
- remittance address
- invoice date
- invoice number
- invoice amount
- Local Match amount
- itemized statement of work performed and expenses incurred during the invoice period
- not be submitted more frequently than quarterly



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Exhibit A – Scope of Work

Metro Grant 931983

Grantee's invoice shall be sent to:

Metro
Caleb Winter – Project Manager
600 NE Grand Avenue
Portland, OR 97232-2736

Or:

caleb.winter@oregonmetro.gov.

The Metro Grant number (931983) shall be referenced in the email subject line.

Pursuant to Metro's fiscal year end, Grantee's invoices for services through June 30 of each year of the grant period shall be submitted to Metro no later than July 15. Payment shall be made by Metro on a Net (thirty) 30 day basis upon approval of Grantee's invoice.



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Exhibit B – Partnership Requirements

Metro Grant 931983

Partnership Requirements

The purpose of the following partnership requirements are for Regional Travel Options (RTO) partners to gain productivity and reduce expense by using tools developed through regional collaborative efforts. Partnership will multiply the benefits of the RTO grant by applying current strategies and brands while incorporating past lessons learned. Partnership will save public dollars by avoiding paying for the same thing twice.

Grantee will engage in a partnership with Metro, RTO staff and other RTO program partners. Partnership requirements apply to anything included in the Grant Agreement or made possible by the Grant Agreement. Exceptions to the following requirements can be requested by writing to RTO staff and must receive confirmation in writing by RTO staff.

Applying Strategies and Collaborating with RTO Partners

Grantee will:

- Review 2012-2017 RTO Strategic Plan
- Review RTO Marketing Strategy and use messages with applicable audiences
- Participate in the RTO Collaborative Marketing Group
- Because the RTO program and partners have made a major investment over time to encourage employment sites around the region to start and grow their travel options programs and benefits to employees:
 - Coordination of employer outreach efforts is required between TriMet, Wilsonville SMART, TMAs or other employer outreach partners affected by this project scope or located in the project geographic area. Coordination includes clear, frequent and timely communication between partners with the goal of providing effective consulting for employers on how to grow their travel options programs. Examples of efficiencies that come from coordination include shared use of existing tools, campaigns and survey support. Employer outreach coordination efforts will be discussed at various Collaborative Marketing Group meetings

Tools

Grantee will use existing tools and resources:

- For promotional photo needs, browse the existing collection of RTO photos (currently located on Flickr) to see if any work for this project. Refer to each photo's guidance for determining who to credit. RTO will provide login and access to the photo website. Project photos that have potential value to partners should be shared by uploading them to the photo website
- For rideshare promotion, highlight Drive Less Connect. Contact RTO staff to set up a network and for other assistance. A Spanish version of the Drive Less Connect tool can be accessed by clicking on "Spanish" in the top, left corner of the screen
- For promotions or competitions that ask participants to log their trips, use Drive Less Connect, unless it is for the September Bicycle Transportation Alliance Bike Commute Challenge. RTO can provide training for using the Drive Less Connect tool upon request
- For incentives or rewards offered to participants, contact RTO staff for recent experience (e.g., pricing for items, incentive language and tax forms)

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Exhibit B – Partnership Requirements

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- For vanpool formation, contact Daniel.Kaempff@oregonmetro.gov to discuss start-up incentives and strategies to build ridership
- For personalized bike, walk, transit, or combination trip plans, use the TriMet Map Trip Planner (<http://trimet.org/howtoride/maptripplanner.htm>) and highlight the tool. Contact TriMet (Adriana Britton (BrittonA@trimet.org)) for related language or logos to use while highlighting the tool
- For web-based resources needed for biking and walking info, include a link to Metro's Sustainable Living – Getting Around web pages (current URL is <http://www.oregonmetro.gov/gettingaround>)

Marketing Materials Attribution

- All projects shall attribute credit to the Federal Transit Administration and Metro. Print attribution on project materials (such as booklets, brochures, ads, banners, flyers, posters, signage, and web pages) must read:
 - Made possible with support from Metro and the Federal Transit Administration
- If marketing is done with audio only, spoken attribution language must be:
 - In partnership with Metro, with support by the Federal Transit Administration
- All marketing materials created or printed for the purposes of the project, including both printed and web-based information, shall include the Drive Less Save More logotype. Drive Less Save More is the marketing "umbrella" campaign for RTO projects and programs
- Include the Metro logo on all marketing and advertising materials, both print and online. Metro will provide partners with Metro logos and usage guidelines. Grantees must seek Metro approval through the grant manager of any materials where the Metro logo is included to ensure proper logo design and placement
- If the project designs wayfinding signage, apply The Intertwine design guidelines (http://library.oregonmetro.gov/files/intertwine_regional_trail_signage_guidelines.pdf)

Events and Media

- Provide Metro with a visual presence at any public events. An example is a Metro banner which can be loaned by Metro (contact Marne.Duke@oregonmetro.gov) to consider options
- Inform RTO grant manager of any event needs 90 days in advance. Examples of needed help from partners may include cross-promotion or recruiting volunteers
- Mention support provided by Metro and the Federal Transit Administration in press releases, and social media
- For projects that include a ceremony (e.g., ribbon-cutting, unveiling), please contact the RTO grant manager to consider partnership highlights and discuss if a Metro official should attend and speak
- If a reporter or media outlet inquires about this grant project, please notify the RTO grant manager immediately



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Exhibit B – Partnership Requirements

Metro Grant 931983

Measurement and Evaluation

- If the project includes conducting a survey (collecting primary data), involve RTO staff in refining the method, design and RFP (if applicable). Provide a report to RTO grant manager at least two weeks before official release
- If the project collects background data (secondary sources), refer to Metro sources whenever possible (contact Caleb.Winter@oregonmetro.gov). This is especially important for travel behavior, mode splits and average distances by modes
- If the project presents vehicle miles reduced, emissions reduced, gas savings or similar metrics, work with RTO staff to use consistent methods

Exhibit C – Federal Clauses

\$100,000 and above

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The Grantee agrees to comply with all applicable Federal Clauses as outlined in the **October 1, 2012 FTA Master Agreement [FTA MA 19]** including, but not limited to, the following:

A. Application of Federal, State, and Local Laws, Regulations and Guidance.

For purposes of this Master Agreement:

(1) **Federal requirement.** A Federal requirement includes, but is not limited to a:

- (a) An applicable Federal law,
- (b) Applicable Federal regulation,
- (c) Provision of the Recipient's Underlying Agreement, or
- (d) Provision of this Master Agreement,

(2) **Federal guidance.** Federal guidance includes, but is not limited to:

(a) Federal guidance such as a:

- 1 Presidential Executive Order,
- 2 Federal order that applies to entities other than the Federal Government,
- 3 Federal published policy,
- 4 Federal administrative practice,
- 5 Federal guideline,
- 6 Letter signed by an authorized Federal official, and
- 7 Other applicable Federal guidance as defined at section 1.j of this Master Agreement, or

(b) Other Federal publications or documents providing official instructions or advice about a Federal program that:

- 1 Are not designated as a "Federal Requirement" in section 2.c (1) of this Master Agreement, and
- 2 Are signed by an authorized Federal official,

(3) **Compliance.** The Recipient understands and agrees that:

(a) **Federal Requirements.** It must comply with all Federal requirements that apply to itself and its Project,

(b) **Federal Guidance.** FTA strongly encourages the Recipient and each of its Third Party Participants to follow Federal guidance as described in the preceding section 2.c(2) of this Master Agreement to ensure satisfactory compliance with Federal requirements,

(c) **Alternative Actions.** It may violate Federal requirements if it:

- 1 Adopts an alternative course of action not expressly authorized by the Federal Government in writing, and
- 2 Has not first secured FTA's approval of that alternative in writing,

[FTA Master Agreement §2.c (1) (2) (3)]

B. No Federal Government Obligations to Third Parties.

Except as the Federal Government expressly consents in writing, the Recipient agrees that:

- (1) The Federal Government shall not be subject to any obligations or liabilities related to:
 - (a) The Project,
 - (b) Any Third Party Participant at any tier, or
 - (c) Any other person or entity that is not a party (Recipient or FTA) to the underlying Agreement for the Project, and

(2) Notwithstanding that the Federal Government may have concurred in or approved any solicitation or third party agreement at any tier that has affected the Project, the Federal Government shall not have obligation or liability to any:

- (a) Third Party Participant, or
 - (b) Other entity or person that is not a party (Recipient or FTA) to the Underlying Agreement.
- [FTA Master Agreement, §2.f]

C. False or Fraudulent Statements or Claims.

(1) Civil Fraud. The Recipient acknowledges and agrees that:

- (a) Federal law and regulations apply to itself and its Project, including:
 - (1) The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.*, and
 - (2) U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31,

(b) By executing the Underlying Agreement, the Recipient certifies and affirms the:

(1) Truthfulness and accuracy of any

- (a) Claim,
- (b) Statement,
- (c) Submission,
- (d) Certification,
- (e) Assurance, or
- (f) Representation, and

(2) For which the Recipient has made, makes, or will make to the Federal Government, and

(c) The Recipient acknowledges that the Federal Government may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Recipient:

(1) Presents, submits, or makes available any information in connection with any:

Exhibit C – Federal Clauses

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- (a) Claim
- (b) Statement
- (c) Submission
- (d) Certification
- (e) Assurance, or
- (f) Representation, and

(2) That information is false, fictitious, or fraudulent,

(2) Criminal Fraud. The Recipient acknowledges that 49 U.S.C. § 5323 (1) (1), authorizes the Federal Government to impose the penalties authorized by 18 U.S.C. § 1001 if the Recipient:

(1) Presents, submits, or makes available any information in connection with any:

- (a) Claim
- (b) Statement
- (c) Submission
- (d) Certification
- (e) Assurance, or
- (f) Representation, and

(2) That information is false, fictitious, or fraudulent,

[FTA Master Agreement §3.f]

D. Procurement.

Access to Third Party Contract Records. The Recipient agrees to require, and assures that its Subrecipients will require, its Third Party Contractors at each tier, to provide:

(1) The U.S. Secretary of Transportation and the Comptroller General of the United States, the State, or their duly authorized representatives, access to all third party contract records (at any tier) as required by 49 U.S.C. § 5325(g), and

(2) Sufficient access to all third party contract records (at any tier) as needed for compliance with applicable Federal laws and regulations or to assure proper Project management as determined by FTA.

[FTA Master Agreement §17(u)]

E. Project Implementation.

Changes to Federal Requirements and Guidance.

(1) Requirements and Guidance. New Federal Requirements and Guidance may:

a. Become effective after the FTA Authorized Official signs the Recipient's Underlying Agreement awarding funds for the Project, and

b. Apply to the Recipient or its Project,

[FTA Master Agreement, §2.d (1)]

F. Civil Rights.

The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Specifically:

a. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will:

- (1) prohibit discrimination based on:
 - (a) race,
 - (b) color, or
 - (c) national origin
- (2) Comply with:
 - (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d *et seq.*,
 - (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. Part 21 and
 - (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the previous section 13.a of this Master Agreement, and
- (3) Except as FTA determines otherwise in writing, follow
 - (a) The most recent edition of FTA Circular 4702.1A, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance.
 - (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964, 28 C.F.R. § 50.3, and
 - (c) other applicable Federal guidance that may be issued,

c. Equal Employment Opportunity.

- (1) Federal Requirements and Directives. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and:
 - (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.*
 - (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,
 - (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in Section 13.a of this Master Agreement, and,
 - (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing.

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(2) General. Recipient agrees to

(a) Ensure that applicants for employment and employees are treated during employment without discrimination on the basis of their:

- 1 Race,
- 2 Color,
- 3 Religion,
- 4 Sex,
- 5 Disability,
- 6 Age, or
- 7 National origin.

(b) Take affirmative action that includes, but is not limited to:

- 1 Recruitment advertising,
- 2 Recruitment,
- 3 Employment,
- 4 Rates of pay,
- 5 Other forms of compensation,
- 6 Selection for training, including apprenticeship,
- 7 Upgrading,
- 8 Transfers,
- 9 Demotions,
- 10 Layoffs, and
- 11 Terminations.

(3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with:

(a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and

(b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,

d. Disadvantaged Business Enterprise. To the extent authorized by Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows:

(1) Requirements. The Recipient agrees to comply with:

(a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note,

(b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26 and

(c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in Section 13a. of this Master Agreement,

(2) Assurance. As required by 49 C.F.R. § 26.13(a), the Recipient provides assurance that:

The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq.*,

g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities:

(1) Federal laws, including:

- (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities,
- (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities;
- (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities;
- (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and
- (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities,

(2) The following Federal regulations including:

- (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37,
- (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27,
- (c) U. S. DOT regulations "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39,
- (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and
- (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35,

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- (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36,
- (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630,
- (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, Subpart F,
- (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and
- (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and

(1) Other applicable Federal civil rights and nondiscrimination guidance,
[FTA Master Agreement §13(b) (c) (d) (g)]

G. Private Enterprise.

The Recipient agrees to protect the interests of private enterprise affected by Federal public transportation programs by:

- a. **Participation.** Encouraging private enterprise to participate in the planning of public transportation and the programs that provide public transportation, to the extent permitted by
(1) 49 U.S.C. § 5306,
[FTA Master Agreement §15(a)]

H. Right of the Federal Government to Terminate.

- a. **Justification.** After providing notice, the Federal Government may suspend, suspend then terminate, or terminate all or any part of the Federal funding awarded for the Project if:
 - (1) The Recipient has violated the Underlying Agreement or this Master Agreement, especially if that violation would endanger substantial performance of the Project,
 - (2) The Recipient has failed to make reasonable progress on the Project,
 - (3) The Federal Government determines that the continuation of the Federal funding for the Project does not adequately serve the purposes of the law authorizing the Project.
- b. **Financial Implications.**
 - (1) In general, termination of Federal funding for the Project will not invalidate obligations properly incurred before the termination date to the extent those obligations cannot be canceled, and
 - (2) The Federal Government may:
 - (a) Recover Federal funds it has provided for the Project if it determines that the Recipient has willfully misused Federal funds by:

Exhibit C – Federal Clauses

\$100,000 and above

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- 1 Failing to make adequate progress,
- 2 Failing to make appropriate use of Project property, or
- 3 Failing to comply with the underlying Agreement or this Master Agreement

(b) Require the Recipient to refund

- 1 The entire amount of Federal funds provided for the Project, or
- 2 Any lesser amount as the Federal Government may determine, and

c. **Expiration of Project Time Period.** Except for a Full Funding Grant Agreements, expiration of any Project time period established for the Project does not, by itself, constitute an expiration or termination of the underlying Agreement.

[FTA Master Agreement §12]

I. **Debarment and Suspension.**

The Recipient agrees that:

(1) It will not engage Third Party Participants that are debarred or suspended except as authorized by:

- (a) U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. Part 1200,
- (b) U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including any amendments thereto, and
- (c) Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note,

(2) It will review the "Excluded Parties Listing System" at <http://epls.gov/> (to be transferred to <https://www.sam.gov>), if required by U.S. DOT regulations, 2 C.F.R. Part 1200, and

(3) It will include, and require its Third Party Participants to include a similar condition in each lower tier covered transaction, assuring that all lower tier Third Party Participants:

- (a) Will comply with Federal debarment and suspension requirements, and
 - (b) Review the "Excluded Parties Listing System" at <http://www.epls.gov/> (to be transferred to <https://www.sam.gov>), if necessary to comply with U.S. DOT regulations 2 C.F.R. part 1200.
- [FTA Master Agreement §3.b]

J. **Preference for United States Products and Services.**

Except as the Federal Government determines otherwise in writing, the Recipient agrees to comply with FTA's U. S. domestic preference requirements and follow Federal guidance, including:

- a. **Buy America.** Domestic preference procurement requirements of:
 - (1) 5323 (j), as amended by MAP-21, and
 - (2) FTA regulations, "Buy America Requirements," 49 C.F.R. part 661, to the extent consistent with MAP-21
- b. **Fly America.** Air transportation requirements of:
 - (1) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and
 - (2) U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 - 301-10.143.

[FTA Master Agreement §16(a)(c)]

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K. Disputes, Breaches, Defaults or Other Litigation.

The Recipient understands and agrees that:

a. FTA Interest. FTA has a vested interest in the settlement of any disagreement involving the Project including, but not limited to:

- (1) a major dispute,
- (2) A breach,
- (3) A default, or
- (4) Litigation,

b. Notification to FTA. If a current or prospective legal matter that may affect the Federal Government emerges:

- (1) The Recipient agrees to notify immediately:
 - (a) The FTA Chief Counsel, or
 - (b) The FTA Regional Counsel for the Region in which the Recipient is located, (2)

The types of legal matters that require notification include, but are not limited to:

- (a) A major dispute,
- (b) A breach,
- (c) A default,
- (d) Litigation, or
- (e) Naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason, and(3) The types of matters that may affect the Federal Government include, but are not limited to:
 - (a) The Federal Government's interests in the Project, or
 - (b) The Federal Government's administration or enforcement of Federal laws or regulations,

c. Federal Interest in Recovery.

- (1) General. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the Federal share for the Project, but

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(1) Liquidated Damages. Notwithstanding the preceding section 96.c(1) of this Master Agreement, the Recipient may return all liquidated damages it receives to its Project Account rather than return the Federal share of those liquidated damages to the Federal Government,

d. Enforcement. The Recipient agrees to pursue its legal rights and remedies available under:

- (1) Any third party agreement,
- (2) Any Federal law or regulation,
- (3) Any State law or regulation, or
- (4) Any local law or regulation,

e. FTA Concurrence. If a legal matter described in section 96(2) and (3) of this Master Agreement involves the Project or the Recipient, FTA reserves the right to concur in any:

- (1) Compromise, or
- (2) Settlement, and

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

[FTA Master Agreement §96

L. Lobbying Restrictions.

The Recipient agrees that, as provided by 31 U.S.C. §1352(a):

(1) Prohibition on Use of Federal Funds. It will not use Federal funds

(a) To influence any:

1. Officer or employee of a Federal Agency
2. Member of Congress,
3. Officer or employee of Congress, or
4. Employee of a Member of Congress

(b) To take any action involving the Project or the Underlying Agreement for the Project, including any:

1. Award,
2. Extension, or
3. Modification

(2) Laws and Regulations. It will comply, and will assure that each Third Party Participant complies with:

- (a) 31 U.S.C. § 1352 as amended,
- (b) U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. part 20, to the extent consistent with as necessary by 31 U.S.C. § 1352, as amended, and
- (c) Other applicable Federal laws and regulations prohibiting the use of Federal funds for any activity concerning legislation or appropriations designed to influence:

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1. The U.S. Congress, or
2. A State legislature, but

(3) **Exception.** The prohibitions of the preceding section 3.d(1) – (2) of this Master Agreement do not apply to any activity that is undertaken through proper official channels, if permitted by the underlying law or regulations,

[FTA Master Agreement §3.d (1)(2)]

M. Environmental Protections.

a. Air Quality. The Recipient agrees to, and assures that its Third Party Participants will, comply with the Clean Air Act, as amended, 42 U.S.C. §§ 7401 - 7671q, and implementing Federal regulations, as provided in Federal guidance, except as the Federal Government determines otherwise in writing. Among its responsibilities, the Recipient agrees that:

(1) **Public Transportation Operators.** It will comply with:

- (a) U.S. EPA regulations, "Control of Air Pollution from Mobile Sources," 40 C.F.R. Part 85;
- (b) U.S. EPA regulations "Control of Emissions from New and In-Use Highway Vehicles and Engines," 40 C.F.R. Part 86, and
- (c) U.S. EPA regulations "Fuel Economy and Greenhouse Gas Exhaust Emissions of Motor Vehicles," 40 C.F.R. Part 600 and any revisions to these regulations.

(2) **State Implementation Plans.** It will support State Implementation Plans by:

- (a) Implementing each air quality mitigation or control measure incorporated in the documents accompanying the approval of the Project,
- (b) Assuring that any Project identified as a Transportation Control Measure in its State Implementation Plan will be wholly consistent with the design concept and scope of the Project described in the State Implementation Plan, and
- (c) Complying with:

1. Subsection 176(c) of the Clean Air Act, 42 U.S.C. § 7506(c),
2. U.S. EPA regulations, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects developed, Funded or Approved Under Title 23, U. S. C. or the Federal Transit Laws," 40 C.F.R. Part 93, subpart A, and

3. Other applicable Federal conformity regulations that may be promulgated at a later date, and

(3) **Violating Facilities.** It will:

- (a) Comply with the notice of violating facility provisions of section 306 in the Clean Air Act, as amended, 42 U.S.C. § 7414, and
- (b) Facilitate compliance with Executive Order No. 11738, "Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

b. Clean Water. The Recipient agrees to, and assures that its Third Party Participants will, comply with the Clean Water Act, as amended, 33 U.S.C. §§ 1251 – 1377, and implementing Federal regulations, and

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follow Federal implementing guidance, except as the Federal Government determines otherwise in writing. Among its responsibilities, the Recipient agrees that:

(2) Drinking Water. It will protect underground sources of drinking water in compliance with the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§ 300f - 300j-6.

(3) Violating Facilities. It will.

(a) Comply with the notice of violating facility provisions in section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and

(b) Facilitate compliance with Executive Order No. 11738, "Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

[FTA Master Agreement §29(c),(d)]

N. Employee Protections

The Recipient agrees to comply, and assures that each Third Party Participant will comply, with all of the following:

a. **Construction Activities**. Federal laws and regulations providing protections for construction employees involved in Project activities, including:

(1) **Prevailing Wage Requirements**.

(a) Federal transit laws, specifically 49 U.S.C. § 5333(a), (FTA's "Davis-Bacon Related Act"),

(b) The Davis-Bacon Act, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147, and

(c) U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5,

(2) **Wage and Hour Requirements**.

(a) Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701 *et seq.*, and

(b) U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5,

(3) **"Anti-Kickback" Prohibitions**.

(a) Section 1 of the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. § 874,

(b) Section 2 of the Copeland "Anti-Kickback" Act, as amended, 40 U.S.C. § 3145, and

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(c) U.S. DOL regulations, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States," 29 C.F.R. part 3,

(4) Safety at the Construction Site.

(a) Section 107 of that Contract Work Hours and Safety Standards Act, as amended, U. S.C. § 3704, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and

(b) U.S. DOL regulations, "Safety and Health Regulations for Construction," 29 C.F.R. part 1926,

[FTA Master Agreement §28.a]

O. Energy Conservation.

The Recipient agrees to and assures its Subrecipients will:

a. State Energy Conservation Plans. Comply with the mandatory energy standards and policies of its State energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6321 et seq., except as the Federal Government determines otherwise in writing, and

b. Energy Assessment. Perform an energy assessment for any building constructed, reconstructed, or modified with FTA funds required under FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. Part 622, Subpart C.

[FTA Master Agreement §30]

Exhibit C, Attachment A

Debarment Certification

Metro Grant 931983

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTION

This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, the Grantee is required to verify that none of the Grantee, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Grantee is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting this Agreement, the Grantee certifies as follows:

The certification in this clause is a material representation of fact relied upon by **Metro**. If it is later determined that the Grantee knowingly rendered an erroneous certification, in addition to remedies available to **Metro**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Grantee agrees to comply with the requirements of 49 CFR 29, Subpart C throughout the period of this Agreement. The Grantee further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Signature _____

Name _____

Title _____

Organization _____

Date _____

CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned Grantee certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such expenditure or failure.

The Grantee, **City of Portland**, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Grantee understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Signature of Grantee's Authorized Official

Name (Printed)

Title

Date

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UNIFIED PROTECTIVE ARRANGEMENT

For Application to Capital and Operating Assistance Projects
PURSUANT TO SECTION 5333(b) OF TITLE 49
OF THE U.S. CODE, CHAPTER 53
January 3, 2011

The following language shall be made part of the Department of Transportation's contract of assistance with the Grantee, by reference;

The terms and conditions set forth below shall apply for the protection of the transportation related employees in the transportation service area of the Project. As a precondition of the release of assistance by the Grantee to any additional Recipient under the grant, the Grantee shall incorporate this arrangement into the contract of assistance between the Grantee and the Recipient, by reference, binding the Recipient to these arrangements.

These protective arrangements are intended for the benefit of transit employees in the service area of the project, who are considered as third-party beneficiaries to the employee protective arrangements incorporated by reference in the grant contract between the U.S. Department of Transportation and the Grantee, and the parties to the contract so signify by executing that contract. Transit employees are also third-party beneficiaries to the protective arrangements incorporated in subsequent contracts of assistance, pursuant to the Department's certification, between the Grantee and any Recipient. Employees may assert claims through their representative with respect to the protective arrangements under this provision. This clause creates no independent cause of action against the United States Government.

The term "service area," as used herein, includes the geographic area over which the Project is operated and the area whose population is served by the Project, including adjacent areas affected by the Project. The term "Union," as used herein, refers to any labor organization representing employees providing public transportation services in the service area of a Project assisted under the grant, including both employees of the Recipient and employees of other public transportation providers. The term "Recipient," as used herein, shall refer to any employer(s) receiving transportation assistance under the grant. The term "Grantee," as used herein, shall refer to the applicant for assistance; a Grantee which receives assistance is also a Recipient.

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

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

(2) Where employees of a Recipient are represented for collective bargaining purposes, all Project services provided by that Recipient shall be provided under and in accordance with any collective

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bargaining agreement applicable to such employees which is then in effect. This Arrangement does not create any collective bargaining relationship where one does not already exist or between any Recipient and the employees of another employer. Where the Recipient has no collective bargaining relationship with the Unions representing employees in the service area, the Recipient will not take any action which impairs or interferes with the rights, privileges, and benefits and/ or the preservation or continuation of the collective bargaining rights of such employees.

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

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

The Recipient agrees that it will bargain collectively with the Union or otherwise arrange for the continuation of collective bargaining, and that it will enter into agreements with the Union or arrange for such agreements to be entered into, relative to all subjects which are or may be proper subjects of collective bargaining. If, at any time, applicable law or contracts permit or grant to employees covered by this arrangement the right to utilize any economic measures, nothing in this arrangement shall be deemed to foreclose the exercise of such right.

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

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

- 1) an agreement with respect to the application of the terms and conditions of this arrangement to the intended change(s) is reached;
- 2) the decision has been rendered pursuant to the dispute resolution procedures in accordance with paragraph (15) of this arrangement; or

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3) an arbitrator selected pursuant to Paragraph (15) of this arrangement determines that the intended change(s) may be instituted prior to the finalization of implementing arrangements.

(5)(c) In the event of a dispute as to whether an intended change within the purview of this paragraph (5) may be instituted at the end of the 60-day notice period and before an implementing agreement is reached or a final dispute resolution determination is rendered pursuant to subparagraph (b), any involved party may immediately submit that issue to the dispute resolution process under paragraph (15) of this arrangement. In any such dispute resolution procedure, the neutral shall rely upon the standards and criteria utilized by the Surface Transportation Board (and its predecessor agency, the Interstate Commerce Commission) to address the "preconsummation" issue in cases involving employee protections pursuant to 49 U.S.C. Section 11326 (or its predecessor, Section 5(2)(f) of the Interstate Commerce Act, as amended). If the Recipient demonstrates, as a threshold matter in any such dispute resolution process, that the intended action is a trackage rights, lease proceeding or similar transaction, and not a merger, acquisition, consolidation, or other similar transaction, the burden shall then shift to the involved labor organization(s) to prove that under the standards and criteria referenced above, the intended action should not be permitted to be instituted prior to the effective date of a negotiated or arbitrated implementing agreement. If the Recipient fails to demonstrate that the intended action is a trackage rights, lease proceeding, or similar transaction, it shall be the burden of the Recipient to prove that under the standards and criteria referenced above, the intended action should be permitted to be instituted prior to the effective date of a negotiated or arbitrated implementing agreement. For purposes of any such dispute resolution procedure, the time period within which the parties are to respond to the list of potential neutrals submitted by the American Arbitration Association shall be five (5) days, the notice of hearing may be given orally or by facsimile, the hearing will be held promptly, and the award of the neutral shall be rendered promptly and, unless otherwise agreed to by the parties, no later than fourteen (14) days from the date of closing the hearings, with five (5) additional days if post hearing briefs are submitted by either party. The intended change shall not be instituted during the pendency of any dispute resolution proceedings under this subparagraph (c).

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

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

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

(6)(b) The displacement allowance shall be a monthly allowance determined by computing the total compensation received by the employee, including vacation allowances and monthly compensation guarantees, and his/her total time paid for during the last twelve (12) months in which the employee performed compensated service more than fifty per centum of each such month, based upon the employee's normal work schedule, immediately preceding the date of his/her displacement as a result of the Project, and by dividing separately the total compensation and the total time paid for by twelve,

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

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

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

Employee's length of service Prior to adverse effect	Period of protection
1 day to 6 years	equivalent period
6 years or more	6 years

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

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

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

(7)(d) The dismissal allowance shall be paid to the regularly assigned incumbent of the position abolished. If the position of an employee is abolished when the employee is absent from service, the employee will be entitled to the dismissal allowance when the employee is available for service. The employee temporarily filling said position at the time it was abolished will be given a dismissal allowance

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on the basis of that position, until the regular employee is available for service, and thereafter shall revert to the employee's previous status and will be given the protections of the agreement in said position, if any are due him/her.

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

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

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

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

(7)(i) A dismissed employee receiving a dismissal allowance shall actively seek and not refuse other reasonably comparable employment offered him/her for which the employee is physically and mentally qualified and does not require a change in the employee's place of residence. Failure of the dismissed employee to comply with this obligation shall be grounds for discontinuance of the employee's allowance; provided that said dismissal allowance shall not be discontinued until final determination is made either by agreement between the Recipient and the employee or his/her representative, or by final and binding dispute resolution determination rendered in accordance with paragraph (15) of this arrangement that such employee did not comply with this obligation.

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

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

(10) No employee receiving a dismissal or displacement allowance shall be deprived, during the employee's protected period, of any rights, privileges, or benefits attaching to his/her employment, including, without limitation, group life insurance, hospitalization and medical care, free transportation for the employee and the employee's family, sick leave, continued status and participation under any

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disability or retirement program, and such other employee benefits as Railroad Retirement, Social Security, Workmen's Compensation, and unemployment compensation, as well as any other benefits to which the employee may be entitled under the same conditions and so long as such benefits continue to be accorded to other employees of the bargaining unit, in active service or furloughed as the case may be.

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

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

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

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

(12)(a) The following conditions shall apply to the extent they are applicable in each instance to any employee who is retained in the service of the employer (or who is later restored to service after being entitled to receive a dismissal allowance), who is required to change the point of his/her employment as a result of the Project, and is thereby required to move his/her place of residence.

If the employee owns his/her own home in the locality from which the employee is required to move, the employee shall, at the employee's option, be reimbursed by the Recipient for any loss suffered in the sale of the employee's home for less than its fair market value, plus conventional fees and closing costs, such loss to be paid within thirty (30) days of settlement or closing on the sale of the home. In each case, the fair market value of the home in question shall be determined, as of a date sufficiently prior to the date of the Project, so as to be unaffected thereby. The Recipient shall, in each instance, be afforded an opportunity to purchase the home at such fair market value before it is sold by the employee to any other person and to reimburse the seller for his/her conventional fees and closing costs.

If the employee is under a contract to purchase his/her home, the Recipient shall protect the employee against loss under such contract, and in addition, shall relieve the employee from any further obligation there under.

If the employee holds an unexpired lease of a dwelling occupied as the employee's home, the Recipient shall protect the employee from all loss and cost in securing the cancellation of said lease.

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

(12)(c) Should a controversy arise in respect to the value of the home, the loss sustained in its sale, the loss under a contract for purchase, loss and cost in securing termination of a lease, or any other question

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in connection with these matters, it shall be decided through a joint conference between the employee, or his/her union, and the Recipient. In the event they are unable to agree, the dispute or controversy may be referred by the Recipient or the union to a board of competent real estate appraisers selected in the following manner: one (1) to be selected by the representatives of the employee, and one (1) by the Recipient, and these two, if unable to agree within thirty (30) days upon the valuation, shall endeavor by agreement with ten (10) days thereafter to select a third appraiser, or to agree to a method by which a third appraiser shall be selected, and failing such agreement, either party may request the State and local Board of Real Estate Commissioners to designate within ten (10) days a third appraiser, whose designation will be binding upon the parties and whose jurisdiction shall be limited to determination of the issues raised in this paragraph only. A decision of a majority of the appraisers shall be required and said decision shall be final, binding, and conclusive. The compensation and expenses of the neutral appraiser including expenses of the appraisal board shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the compensation of the appraiser selected by such party.

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

(12)(e) "Change in residence" means transfer to a work location which is either:

- (A) outside a radius of twenty (20) miles of the employee's former work location and farther from the employee's residence than was his/her former work location, or
- (B) is more than thirty (30) normal highway route miles from the employee's residence and also farther from his/her residence than was the employee's former work location.

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

Length of Service	Separation Allowance
1 year and less than 2 years	3 month's pay
2 years and less than 3 years	6 month's pay
3 years and less than 5 years	9 month's pay
5 years and less than 10 years	12 month's pay
10 years and less than 15 years	12 month's pay
15 years and over	12 month's pay

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

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

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

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(13)(b) One month's pay shall be computed by multiplying by 30 the normal daily earnings (including regularly scheduled overtime, but excluding other overtime payments) received by the employee in the position last occupied prior to time of the employee's dismissal as a result of the Project.

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

(15) Any dispute, claim, or grievance arising from or relating to the interpretation, application or enforcement of the provisions of this arrangement, not otherwise governed by paragraph 12(c) of this arrangement, the Labor-Management Relations Act, as amended, the Railway Labor Act, as amended, or by impasse resolution provisions in a collective bargaining or protective arrangement involving the Recipient(s) and the Union(s), which cannot be settled by the parties thereto within thirty (30) days after the dispute or controversy arises, may be submitted at the written request of the Recipient(s) or the Union(s) in accordance with a final and binding resolution procedure mutually acceptable to the parties. Failing agreement within ten (10) days on the selection of such a procedure, any party to the dispute may request the American Arbitration Association to furnish an arbitrator and administer a final and binding arbitration under its Labor Arbitration Rules. The parties further agree to accept the arbitrator's award as final and binding.

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

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

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

The Recipient will fully honor the claim, making appropriate payments, or will give written notice to the claimant and his/her representative of the basis for denying or modifying such claim, giving reasons therefore. In the event the Recipient fails to honor such claim, the Union may invoke the following procedures for further joint investigation of the claim by giving notice in writing of its desire to pursue such procedures. Within ten (10) days from the receipt of such notice, the parties shall exchange such factual material as may be requested of them relevant to the disposition of the claim and shall jointly take such steps as may be necessary or desirable to obtain from any third party such additional factual materials as may be relevant. In the event the claim is so rejected by the Recipient, the claim may be processed in accordance with the final and binding resolution procedures described in paragraph (15).

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

(18) During the employee's protective period, a dismissed employee shall, if the employee so requests, in writing, be granted priority of employment or reemployment to fill any vacant position within the jurisdiction and control of the Recipient reasonably comparable to that which the employee held when dismissed, including those in the employment of any entity bound by this arrangement pursuant to paragraph (21) hereof, for which the employee is, or by training or retraining can become, qualified; not, however, in contravention of collective bargaining agreements related thereto. In the event such employee requests such training or re-training to fill such vacant position, the Recipient shall provide for such training or re-training at no cost to the employee. The employee shall be paid the salary or hourly rate provided for in the applicable collective bargaining agreement for such position, plus any displacement allowance to which the employee may be otherwise entitled. If such dismissed employee who has made such request fails, without good cause, within ten (10) days to accept an offer of a position comparable to that which the employee held when dismissed for which the employee is qualified, or for which the employee has satisfactorily completed such training, the employee shall, effective at the expiration of such ten-day period, forfeit all rights and benefits under this arrangement.

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

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

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

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

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

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

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

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Any person, enterprise, body, or agency, whether publicly or privately owned, which shall undertake the management, provision and/ or operation of the Project services or the Recipient's transit system, or any part or portion thereof, under contractual arrangements of any form with the Recipient, its successors or assigns, shall agree to be bound by the terms of this arrangement and accept the responsibility with the Recipient for full performance of these conditions. As a condition precedent to any such contractual arrangements, the Recipient shall require such person, enterprise, body or agency to so agree in writing. Transit employees in the service area of the project are third-party beneficiaries to the terms of this protective arrangement, as incorporated by reference in the contractual agreement.

(22) In the event of the acquisition, assisted with Federal funds, of any transportation system or services, or any part or portion thereof, the employees of the acquired entity shall be assured employment, in comparable positions, within the jurisdiction and control of the acquiring entity, including positions in the employment of any entity bound by this arrangement pursuant to paragraph (21). All persons employed under the provisions of this paragraph shall be appointed to such comparable positions without examination, other than that required by applicable federal, state or local law or collective bargaining agreement, and shall be credited with their years of service for purposes of seniority, vacations, and pensions in accordance with the records of their former employer and/ or any applicable collective bargaining agreements.

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

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

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

