

EXHIBIT C

FRA FASTLANE 2017 Terms and Conditions

Attached Separately

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION

Grant Agreement – Attachment 1

FASTLANE TERMS AND CONDITIONS

August 2020

PART I. ATTACHMENT OVERVIEW AND DEFINITIONS

This attachment is part of a Grant¹ Agreement and contains the standard terms and conditions (henceforth referred to as “conditions”) governing the execution of the Project and the administration of this Grant. By entering into this Agreement with the Federal Railroad Administration (FRA), the Grantee, as identified on this Agreement cover sheet, agrees to comply with these conditions and all applicable Federal laws and regulations, including those outlined in this Agreement. Terms that appear frequently throughout the Agreement are defined below:

- a. **Agreement** means this Grant Agreement, including all attachments, and amendments. As used on the Agreement cover sheet: section 9 “Previous Agreements” refers to the amount of the original version of the Agreement, together with, if applicable, all amounts from amendments to the Agreement that preceded the then current amendment; section 10 “This Agreement” refers to the amount being added or subtracted with that the current amendment; and section 11 “Total Agreement” refers to the combined amounts of Section 9 “Previous Agreements” and Section 10 “This Agreement”.
- b. **Application** means the signed and dated application submitted by or on behalf of the Grantee, as may be amended, seeking Federal financial assistance for the Project, together with all explanatory, supporting, and supplementary documents, assurances and certifications filed with and accepted or approved by FRA or DOT.
- c. **Approved Project Budget** is on Attachment 4 to this Agreement and means the most recently dated written statement, approved in writing by FRA, of the estimated total cost of the Project. The term "Approved Project Budget" also includes "Financial Plan" as used in 2 C.F.R. § 200.308.
- d. **Approved Project Schedule** is on Attachment 3 to this Agreement.
- e. **Authorized Representative** means the person(s) at FRA or the Grantee who is able and approved to communicate on behalf of the organization, perform the referenced action, or commit the organization to the referenced action, per the organization’s internal policies, procedures, or reporting structure, except actions otherwise provided for in this Agreement, such as amendments to the terms and conditions of the Agreement.
- f. **DOT** means the United States Department of Transportation, including its operating administrations.
- g. **Effective Date** means the earlier of the federal award date and the first date of the Project Performance Period.
- h. **Federal Contribution** means amounts obligated, whether paid or not, by FRA to the Grantee under this Agreement as shown under “Federal” in sections 9, 10 and 11 of the

¹ The term “grant” is used throughout this document and is intended to reference funding awarded through a traditional Grant Agreement, as well as funding awarded to recipients through a Cooperative Agreement.

Agreement cover sheet.

- i. **Federal Funding Period** means the period that FRA provides funds under this Agreement as shown in section 5 of the Agreement cover sheet.
- j. **Federal Government** means the United States of America and any executive department or agency thereof.
- k. **Federal Railroad Administration or FRA** is an operating administration of the DOT and the Federal Awarding Agency for this Agreement.
- l. **Grantee** means the entity that receives Federal grant assistance directly from FRA for the accomplishment of the Project referenced in this Agreement.
- m. **Non-Federal Contribution** means any amount, including matching funds as used in 2 C.F.R. Part 200, not funded by FRA under this Agreement, regardless of whether the source of any or all of such contribution is a Federal source, as shown under “Non-Federal” in sections 9, 10 and 11 of the Agreement cover sheet.
- n. **Pre-Agreement Costs** has the same meaning as “pre-award costs” under 2 C.F.R. § 200.458.
- o. **Project** means the task or set of tasks set forth in the Statement of Work.
- p. **Project Performance Period** means “period of performance” as defined in 2 C.F.R. § 200.77 and described in 2 C.F.R. § 200.309 and as shown in section 4 of the Agreement cover sheet.
- q. **Statement of Work** is on Attachment 2 to this Agreement containing a detailed description of the work the Grantee will complete with awarded grant funding.
- r. **Total Federal Assistance** means the combined total of the Federal Contribution and the portion, if any, of the Non-Federal Contribution that is from a Federal source.

Additional definitions are found in 2 C.F.R. Part 200, Subpart A, and these Subpart A definitions are incorporated herein by reference and made a part hereof.

PART II. GENERAL

1. Grant Agreement:

This Agreement constitutes the entire agreement between the Grantee and FRA. All prior discussions and understandings concerning such scope and subject matter are superseded by this Agreement. This Agreement is also governed by and subject to 2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, and DOTs implementing regulations at 2 C.F.R. Part 1201.

2. FRA Role:

This Agreement is entered into between FRA and the Grantee. FRA has primary responsibility for the administration of this Agreement, including funding disbursement to the Grantee, per the conditions contained in this Agreement. FRA will also conduct oversight and monitoring activities to assess Grantee progress against established performance goals and the Statement of Work, as well as to assess compliance with conditions and other requirements.

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

FRA will provide professional staff to review work in progress, completed products, and to provide or facilitate access to technical assistance when it is available, feasible, and appropriate. At a minimum, FRA will assign a Financial Analyst and a Grant Manager:

- a. **Financial Analyst.** At the time of award, FRA will provide the name and contact information for the Financial Analyst dedicated to this Agreement. The Financial Analyst will serve as the Grantee's point of contact for systems (e.g., GrantSolutions and the Delphi eInvoicing System) access and troubleshooting as well as for financial monitoring. The Financial Analyst is not authorized to unilaterally change the Statement of Work, make any changes which affect this Agreement's monetary amount, the delivery schedule, Project Performance Period or other terms or conditions.
- b. **Grant Manager.** At the time of award, FRA will provide the name and contact information for the Grant Manager dedicated to this Agreement. The Grant Manager will serve as the Grantee's point of contact for grant administration and will oversee compliance with the terms and conditions in this Agreement. The Grant Manager reviews financial reports, performance reports, and works with the Regional Manager to facilitate effective Project delivery. The Grant Manager is not authorized to unilaterally change the Statement of Work, make any changes which affect this Agreement's monetary amount, Project Performance Period, or other terms and conditions.

- c. Regional Manager. At the time of award, if applicable, FRA will provide the name and contact information for the Regional Manager dedicated to this Agreement. The Regional Manager will be the Grantee's point of contact for the technical aspects of Project delivery. The Regional Manager coordinates Project deliverable review, evaluates Grantee technical assistance needs, and generally assesses Project progress and performance. The Regional Manager is not authorized to unilaterally change the Statement of Work, make any changes which affect this Agreement's monetary amount, Project Performance Period, or other terms and conditions.
- d. Contact Information. FRA strongly prefers electronic submission of most documents (instructions for electronic submission are included under various requirements outlined in the conditions of this attachment). If the Grantee must mail documentation, that documentation should be delivered to the Grant Manager at:

Federal Railroad Administration
Office of Railroad Policy and Development
Mail Stop 20
1200 New Jersey, SE
Washington, DC 20590
ATTN: (ASSIGNED GRANT MANAGER)

3. Applicability of title 23, United States Code:

This grant provides funds authorized under 23 U.S.C. § 117; as such Grantee agrees to comply with the requirements in title 23, United States Code including those in Attachment 5, Applicable Federal Law and Regulations. The Federal Highway Administration will assist FRA in providing technical assistance and in its oversight and administration of this grant, including through participation in monitoring/project delivery meetings with the Grantee as applicable.

4. Grantee Responsibility and Authority:

The Grantee affirms that it had or has, as applicable, the legal authority to apply for the Grant, to enter into this Agreement, and to finance and carry out the proposed Project. The Grantee further affirms that any required resolution, motion or similar action has been duly adopted or passed as an official act authorizing the filing of the Application, where applicable including all understandings and assurances contained therein, and the entering into of this Agreement. The Grantee will not take or permit any action that would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Agreement without the written approval of the FRA, and will act promptly to acquire, extinguish, or modify any outstanding rights or claims of right of others that would interfere with such performance by the Grantee. The Grantee agrees that this will be done in a manner acceptable to the FRA.

5. Project Scope, Schedule, and Budget:

The Grantee agrees to carry out and complete the Project in a sound, economical, and efficient manner, and in accordance with the provisions of this Agreement including the Approved Project Budget, the Statement of Work, Approved Project Schedule, grant guidance, the Application as applicable, , and all applicable laws, regulations, and published policies.

- a. **Scope.** The Grantee will furnish all personnel, facilities, equipment, and other materials and services, except as otherwise specified herein, that are necessary to complete the approved Project, in accordance with the representations, certifications and assurances set forth in the Grantee's Applications(s) as applicable, and any amendments thereto, incorporated herein by reference and made a part hereof.
- b. **Schedule.** The Grantee will complete this Project, as documented in the Statement of Work, within the Project Performance Period. Schedule and Project Performance Period extension requests may be permitted, at the discretion of the FRA, subject to applicable law. The Grantee should request such an extension no later than 90 days prior to the Project Performance Period end date.
- c. **Budget.** The Grantee will complete the Project within the funding limits and parameters specified on the Agreement cover sheet and the Statement of Work.
 - 1) **Project Costs and Funding Contributions.** The Federal Contribution, Non-Federal Contribution and total estimated Project costs toward this Project are documented in sections 9, 10 and 11 of the Agreement cover sheet and may not be changed without a written request and justification from the Grantee, written approval from FRA, and an amendment or closeout to the Agreement. If the actual Projects costs are less than the total estimated Project costs, then the Grantee may reduce the amount and percentage of Non-Federal Contribution obligated to the Project. Notwithstanding the above, funds authorized under 23 U.S.C. § 117 may not exceed 60% of the total Project costs, and Total Federal Assistance may not exceed 80% of the total Project cost, consistent with 23 U.S.C. § 117(j).
 - 2) **Non-Federal Contribution.** The Grantee is responsible for completing the Project, including providing the Non-Federal Contribution, consistent with the Approved Project Budget and 23 U.S.C. § 117(j), and any other funds necessary for completing the Project. The Grantee affirms that it will complete all actions necessary to provide the Non-Federal Contribution at or before the time that such funds are needed to meet Project expenses. The Grantee also affirms that it has sufficient funds available to assure operation and maintenance of items funded under this Agreement that it will own or control.
 - 3) **Project Budget Detail.** The Grantee agrees to carry out the Project according to

the Approved Project Budget. The Grantee agrees to obtain the prior written approval from FRA for any revisions to this Approved Project Budget that equal or cumulatively exceed 10 percent of any budget line item (or pertain to a cost category involving contingency or miscellaneous costs), or amount to a reallocation of 10 percent or more of the total Approved Project Budget across cost categories.

d. Pre-Agreement Costs. Grantees may request approval of Pre-Agreement costs demonstrating purpose, amounts, whether they serve as cost-sharing or matching funds, and that they were incurred after the date of selection. If FRA approves Pre-Agreement Costs, within the constraints described in the Statement of Work, the Grantee may seek reimbursement for these costs on or after the start of the Federal Funding Period specified on the Agreement cover sheet. Such costs are allowable for reimbursement only to the extent that they are otherwise allowable under the terms of this Agreement, and are consistent with 2 C.F.R. § 200.458 and 23 C.F.R. 1.9(b).

6. Grant Amendments:

Other than close-out, modifications to this Agreement may be made only in writing, signed by an Authorized Representative for FRA and the Grantee, and specifically referred to as an amendment to this Agreement.

7. Flow Down Provisions:

The Grantee will ensure persons or entities that perform any part of the work under this Agreement, including Subrecipients, as defined in 2 C.F.R. § 200.93, or Contractors, as defined in 2 C.F.R. § 200.23, will comply with applicable federal requirements and federal guidance, and the applicable requirements of this Agreement. Grantee agrees that flowing down such requirements does not relieve it of any obligation to comply with the requirements itself.

For each of the Grantee's subawards or contracts to perform all or part of the work under this Agreement:

- (A) The Grantee must include applicable grant regulations in the subaward or contract and ensure compliance with these provisions, including applicable provisions of 2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, and DOT's implementing regulations at 2 C.F.R. Part 1201 *See* 2 C.F.R. § 200.101.
- (B) The Grantee must include applicable federal statutory and regulatory requirements in the subaward or contract and ensure compliance with these requirements, including applicable limitations on use of federal funds.

(C) There will be provisions for the further flow down of the regulations and requirements in subsections (A) and (B) of this section to each subsequent subaward or subcontract, as required.

8. Successors and Assigns:

The Grantee is not authorized to assign this Agreement without FRA's express prior written consent.

9. Execution:

This Agreement may be executed by the Grantee and FRA in separate counterparts, each of which when so executed and delivered will be deemed an original.

10. Changed Conditions of Performance (Including Litigation):

The Grantee agrees to immediately notify FRA, in a written statement to the FRA Grant Manager, of any change in local law, conditions, or any other event that may affect its ability to perform the Project in accordance with the terms of this Agreement. In addition, the Grantee agrees to immediately notify the FRA Grant Manager of any decision pertaining to the Grantee's conduct of litigation that may affect FRA's interests in the Project or FRA's administration or enforcement of applicable Federal laws or regulations. Before the Grantee may name FRA as a party to litigation for any reason, the Grantee agrees first to inform FRA Grant Manager in writing; this proviso applies to any type of litigation whatsoever, in any forum.

11. Severability:

If any provision of this Agreement is held invalid, all remaining provisions of this Agreement will continue in full force and effect to the extent not inconsistent with such holding.

12. Right of FRA to Terminate:

The Grantee agrees that, upon written notice, FRA may suspend or terminate all or part of the financial assistance provided herein if the Grantee fails to meet the conditions and obligations specified under this Agreement, violates the terms of this Agreement, or if FRA determines that the purposes of the statute(s) under which the Project is authorized or funded would not be adequately served by continuation of the Federal Contribution for the Project. Any failure to make reasonable progress on the Project or other violation of this Agreement that significantly endangers substantial performance of the Project will provide sufficient grounds for FRA to terminate this Agreement.

In general, termination of any financial assistance under this Agreement will not invalidate obligations properly incurred by the Grantee and concurred in by FRA before the termination date; to the extent those obligations cannot be canceled. However, if

FRA determines that the Grantee has willfully misused the Federal Contribution, including by failing to make adequate progress, failing to make reasonable use of the Project property, facilities, or equipment, or failing to adhere to the terms of this Agreement, FRA reserves the right to require the Grantee to refund the entire amount of the Federal Contribution provided under this Agreement or any lesser amount as may be determined by FRA in its sole discretion.

13. Term

This Agreement is in effect from the Effective Date until the end of the closeout period, regardless of whether FRA suspends or terminates all or part of the financial assistance provided herein. The expiration of any time period for performance or funding established for this Project does not, by itself, constitute an expiration or termination of this Agreement.

The end of the closeout period of this Agreement does not affect continuing obligations under 2 C.F.R. Part 200 including those in 2 C.F.R. § 200.344. Any right or obligation of the parties in this Agreement or the closeout notification which, by its express terms or nature and context is intended to survive termination or expiration of this Agreement, will survive any such termination or expiration of this Agreement.

PART III. GRANT MANAGEMENT CONDITIONS

Performance and Reporting Provisions

14. Deliverables and Products:

The Grantee will submit deliverables, including publications or other products, to FRA as stipulated in this Agreement. Substantive changes to the nature of the deliverables or significant timeline modifications require advanced written approval and may require an Amendment to this Agreement.

The Grantee will submit deliverables that adhere to all applicable laws, regulations, and FRA guidance within the timeframes established. In some instances, as articulated in the Statement of Work, the Grantee may be required to submit deliverables and obtain approval from FRA prior to continuing all or a portion of the work on the Project. Accordingly, the Grantee must account for FRA deliverable review time when planning work or submissions.

Whether for technical examination, administrative review, publication, or approval, all deliverable submissions will be of a professional quality and suitable for their intended purpose.

15. Quarterly Progress Reports:

The Grantee will submit one completed progress report quarterly (totaling four annually), in the form/format provided by FRA at <http://www.fra.dot.gov/Page/P0274>. The Grantee must report for the periods of: January 1 – March 31, April 1 – June 30, July 1 – September 30, and October 1 – December 31, for the duration of Project Performance Period. The Grantee will furnish one copy of the completed progress report to the assigned FRA Grant Manager on or before the thirtieth (30th) calendar day of the month following the end of the quarter for which the report is submitted.

The Grantee must complete the report in its entirety with the most accurate information available at the time of reporting. The Grantee must be able to support the information contained in its progress reports and ensure that the activities described in the report are commensurate with reimbursement requests and/or outlay figures reported for the quarter. This report will be consistent with 2 C.F.R. § 200.301.

16. Quarterly Federal Financial Reports:

The Grantee will submit the Federal Financial Report (Standard Form 425) on the same schedule as the required progress report (listed above). Reports should be submitted online through GrantSolutions. Reports will be submitted in accordance with the form's instructions. The final SF-425 is due within 90 days after the end of the Project Performance Period, but may be submitted as soon as all outstanding expenditures have been completed. The Grantee must be able to support the information contained in its financial reports and will ensure that data included in the report is accurate and consistent.

17. Interim and Final Performance Reports:

If required by the Statement of Work, the Grantee will submit interim reports at the intervals specified in the Statement of Work. The Grantee must submit a Final Performance Report via email to the FRA Grant Manager when the Project(s) funded through this Agreement are completed. The Grantee must submit reports, no later than 90 days after the end of the Project Performance Period for this Agreement or FRA termination date.

18. Project Completion and Closeout:

- a. **Final Documentation.** As soon as the funded Project(s) are complete, the Grantee will submit a final SF-425, a final Progress Report, a final Performance Report, and a final payment request. Closeout activities by Grantee, including submission of the referenced documents, must be completed no later than 90 days after the end of the Project Performance Period for this Agreement or FRA termination date.
- b. **Excess Payments.** If FRA has made payments to the Grantee in excess of the total amount of FRA funding due, the Grantee will promptly remit that excess and interest as may be required by section 20(f) of this Attachment.

- c. Closeout. Grantees should begin closeout procedures when their Project(s) is complete. The Project closeout period is complete when all of the following is complete: 1) the required Project work is complete, 2) all administrative procedures described in 2 C.F.R. Part 200 (all sections), as applicable, have been completed, and 3) when FRA either notifies the Grantee of closeout or when FRA acknowledges the Grantee's remittance of a proper refund. Project closeout will not invalidate any continuing obligations imposed on the Grantee by this Agreement, including 2 C.F.R. § 200.344, or by the FRA's final notification or acknowledgment.

19. Transparency Act Requirements—Reporting Subawards and Executive Compensation:

The Grantee will comply with the provisions of the Federal Funding Transparency and Accountability Act of 2006 (Pub. L. 109-282) and 2 C.F.R Part 170, incorporated herein by reference and made part hereof. For more information, visit <https://www.fsr.gov/>.

20. Recipient Integrity and Performance Matters:

- a. General Reporting Requirement. If the total value of the Grantee's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the Project Performance Period, then the Grantee during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in subsection (b) of this section. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. § 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

- b. Proceedings About Which the Grantee Must Report.

Submit the information required about each proceeding that:

- 1) Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- 2) Reached its final disposition during the most recent five-year period; and
- 3) Is one of the following:
 - A criminal proceeding that resulted in a conviction, as defined in subsection (e) of this section;

- A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
- An administrative proceeding, as defined in subsection (e) of this section, that resulted in a finding of fault and liability and the Grantee's payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
- Any other criminal, civil, or administrative proceeding if:
 - It could have led to an outcome described in subsection (b)(3) of this section;
 - It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on the Grantee's part; and
 - The requirement in this section to disclose information about the proceeding does not conflict with applicable laws and regulations.

c. Reporting Procedures.

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in section (b) of this section. The Grantee does not need to submit the same information a second time under assistance awards that the Grantee received if the Grantee already provided the information through SAM because the Grantee was required to do so under Federal procurement contracts that the Grantee was awarded.

d. Reporting Frequency.

During any period of time when the Grantee is subject to the requirement in subsection (a) of this section, the Grantee must report proceedings information through SAM for the most recent five-year period, either to report new information about any proceeding(s) that the Grantee has not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

e. Definitions.

For purposes of this section:

- 1) Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals

proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

- 2) Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- 3) Total value of currently active grants, cooperative agreements, and procurement contracts includes—
 - Only the Federal share of the funding under any Federal award with a Grantee; and
 - The value of all expected funding increments under a Federal award and options, even if not yet exercised.

Financial Management Provisions

21. Payments:

- a. Request by the Grantee for Payment. The Grantee's request for payment of the Federal Contribution of allowable costs will be made to FRA and will be acted upon by FRA as set forth in this section. For states, payments are governed by Treasury/State CMIA agreements, and default procedures codified at 31 C.F.R. Part 205 “Rules and Procedures for Efficient Federal-State Funds Transfers” and TFM 4A-2000 Overall Disbursing Rules for All Federal Agencies. Non-states must comply with the provisions of 2 C.F.R. §200.305(b). To receive a Federal Contribution payment, the Grantee must:
 - 1) Have demonstrated or certified that it has made a binding commitment of the Non-Federal Contribution, if applicable, adequate when combined with the Federal Contribution, to cover all costs to be incurred under the Project as of the date of the request. A Grantee required by Federal statute or this Agreement to provide Non-Federal Contribution for the Project agrees:
 - i. to refrain from requesting or obtaining any Federal Contribution that is more than the amount justified by the Non-Federal Contribution that has been provided; and
 - ii. to refrain from taking any action that would cause the proportion of the Federal Contribution at any time to exceed the percentages authorized under this Agreement and 23 U.S.C. §117(j). The phasing or expenditure rate of the Non-Federal Contribution may be temporarily

adjusted only to the extent expressly provided in writing by an Authorized Representative of FRA.

- 2) Have submitted to FRA all financial and progress reports required to date under this Agreement; and
 - 3) Have identified the source(s) of financial assistance provided under this Project, if applicable, from which the payment is to be derived.
- b. Reimbursement Payment by FRA. Unless otherwise approved by FRA, FRA will disburse funds to the Grantee on a reimbursable basis, whereby the Grantee will be reimbursed for actual expenses incurred and paid, after the submission of complete and accurate invoices and payment records. The Grantee's request for payment will be made to FRA through the Department of Transportation's Delphi eInvoicing System and will be acted upon as set forth in this section.
- 1) Delphi eInvoicing System first-time users must obtain access to the System, by contacting the Financial Analyst. Additional information on the System can be found at www.dot.gov/cfo/delphi-einvoicing-system.html.
 - 2) Upon receipt of a payment request and adequate accompanying information (invoices in accordance with applicable cost principles), FRA will authorize payment by direct deposit, provided the Grantee: (i) is complying with its obligations under this Agreement, (ii) has satisfied FRA that it needs the requested Federal Contribution for the period covered by the payment request (as identified on the Standard Form 270 Request for Advance or Reimbursement (SF-270)), and (iii) is making adequate and timely progress toward Project completion. If all these circumstances are present, FRA may reimburse allowable costs incurred by the Grantee up to the maximum amount of the Federal Contribution.

The Grantee agrees to give a written, five-day notice to the assigned FRA Grant Manager for any payment request totaling \$50 million or more. Grantees should note that FRA is unable to process single payment requests greater than \$99,999,999. The Grantee agrees to adhere to and impose upon its subrecipients all applicable foregoing "Reimbursement Payment by FRA" requirements of this Agreement.

If the Grantee fails to adhere to the foregoing "Reimbursement Payment by FRA" requirements of this Agreement, FRA may withhold funding disbursements.

- c. Allowable Costs. FRA will reimburse the Grantee's expenditures, within the Federal Funding Period, only if they meet all of these requirements:
 - 1) Conform to the Project description, the Statement of Work, the Approved Project Budget, and all other terms of this Agreement;

- 2) Be necessary in order to accomplish the Project;
 - 3) Be reasonable for the goods or services purchased;
 - 4) Be actual net costs to the Grantee (i.e., the price paid minus any applicable credits, refunds, rebates, or other items of value received by the Grantee that have the effect of reducing the cost actually incurred);
 - 5) Be incurred (and be for work performed) within the Project Performance Period, unless specific authorization from FRA to the contrary is received in writing;
 - 6) Unless permitted otherwise by Federal statutes or regulation, conform to Federal guidelines or regulations and Federal cost principles, as set forth in 2 C.F.R. Subpart E § 200.400 – 200.475.
 - 7) Be satisfactorily documented; and
 - 8) Be treated uniformly and consistently under accounting principles and procedures approved and prescribed by FRA for the Grantee, and those approved or prescribed by the Grantee for its subrecipients and contractors.
- d. Disallowed Costs. In determining the amount of disallowed costs, FRA will exclude:
- 1) Any Project costs incurred by the Grantee, activities undertaken or work performed outside of the Project Performance Period, or amendment or modification thereof (whichever is later), unless specifically authorized by FRA in writing, allowed by this Agreement, or otherwise permitted by Federal law or regulation;
 - 2) Any costs incurred by the Grantee that are not included in the latest Approved Project Budget; and
 - 3) Any costs attributable to goods or services received under a contract or other arrangement that is required to be, but has not been, concurred in or approved in writing by FRA.

The Grantee agrees that reimbursement of any cost under this section does not constitute a final FRA decision about the allowability of that cost and does not constitute a waiver of any violation by the Grantee of the terms of this Agreement. The Grantee understands that FRA will not make a final determination about the allowability of any cost until an audit of the Project has been completed. If FRA determines that the Grantee is not entitled to receive any part of the Federal Contribution requested, FRA will notify the Grantee stating the reasons therefor. Project closeout will not alter the Grantee's obligation to return any funds due to FRA as a result of later

refunds, corrections, or other transactions. Project closeout will not alter FRA's right to disallow costs and recover funds on the basis of a later audit or other review. Unless prohibited by law, FRA may offset any Federal Contribution to be made available under this Agreement, as needed, to satisfy any outstanding monetary claims that the Federal Government may have against the Grantee. Exceptions pertaining to disallowed costs will be assessed based on their applicability, as set forth in the applicable Federal cost principals or other written Federal guidance.

- e. Bond Interest and Other Financing Costs. To the extent permitted in writing by FRA and consistent with 2 C.F.R. § 200.449, bond interest and other financing costs are allowable.
- f. Requirement to Remit Interest. The Grantee agrees that any interest earned by the Grantee on the Federal Contribution must be handled in accordance with 2 C.F.R. §200.305, and remittance back to the Government must be made in accordance with the provisions thereof.

22. Accounting Procedures:

- a. Project Accounts. The Grantee will establish and maintain for the Project either a separate set of accounts or accounts within the framework of an established accounting system, in a manner consistent with 2 C.F.R. §§ 200.302, 200.303 and 200.305.
- b. Funds Received or Made Available for the Project. Grantees other than states will follow the provisions of 2 C.F.R. § 200.305(b)7) with respect to the use of banks and other institutions as depositories of any advance payments that may be received under this Agreement. States will follow the provisions of 2 C.F.R. §200.305(a).
- c. Documentation of Project Costs and program income. All costs charged to the Project, including any approved services contributed by the Grantee or others, will be supported by properly executed payrolls, time records, invoices, contracts, or vouchers describing in detail the nature and propriety of the charges. The Grantee will also maintain accurate records of all program income derived from Project implementation.
- d. Checks, Orders, and Vouchers. The Grantee will ensure that all checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the Project are clearly identified with a Grant Agreement number, readily accessible, and, to the extent feasible, kept separate from documents not pertaining to the Project.

23. Program Income:

The Grantee is encouraged to earn income to defray Project costs, where appropriate, and should work with the assigned FRA Grant Manager to determine how this income may be applied to the grant, in accordance with 2 C.F.R § 200.307 and 2 C.F.R. § 1201.80. Program income not deducted from total allowable costs may be used only for the purposes and under the conditions established in this Agreement. Records of program income should be maintained consistent with subsection 21(c) of this Agreement.

Project Management Provisions

24. Environmental Protection:

- a. Grantee Assistance. Grantees must comply with the governing laws and regulations referenced in this Attachment and may also be required to assist with FRA's compliance with applicable Federal laws, regulations, executive orders, and policies related to environmental review under the National Environmental Policy Act (NEPA), 42 U.S.C. §4321 *et seq.*, and related laws and regulations and historic preservation under the National Historic Preservation Act (NHPA), 54 U.S.C. § 300101 *et seq.*, and other related laws and regulations. In providing such assistance, FRA may require that the Grantee conduct environmental and/or historic preservation analyses and to submit documentation to FRA.
- b. Timing of Grantee Action. If this Agreement funds environmental reviews under NEPA, the Grantee may not expend any of the funds provided in this Agreement on construction or other activities that represent an irretrievable commitment of resources to a particular course of action affecting the environment until FRA has provided the Grantee with a written notice authorizing the Grantee to proceed.
- c. Minimization, Avoidance and Mitigation Measures. The Grantee must implement all measures to minimize, avoid, or mitigate adverse environmental impacts identified by FRA in the categorical exclusion, Finding of No Significant Impact, or Record of Decision completed for the Project. The Grantee must also implement any additional measures identified through all other environmental or historic preservation review processes conducted to support Project construction and operation (e.g. any commitments included in a Memorandum of Agreement executed pursuant to section 106 of the NHPA).
- d. Revisions to Minimization, Avoidance or Mitigation Measures. The Grantee must provide FRA with written notice if it has not, or cannot, implement any of the minimization, avoidance or mitigation measures identified in subsection (c). FRA may take the appropriate corrective action upon receiving such notice, including identifying substitute mitigation measures or otherwise revising its categorical exclusion, Finding of No Significant Impact, or Record of Decision.

25. Property, Equipment and Supplies:

Unless otherwise approved by FRA, the following conditions apply to property, equipment, and supplies funded under this Agreement:

- a. General Federal Requirements. The Grantee will comply with the property management standards of 2 C.F.R. §§ 200.310 through 200.316, including any amendments thereto, and other applicable guidelines or regulations that are issued. Exceptions to the requirements must be specifically approved by FRA in writing. The Grantee will use Project real property, as defined by 2 C.F.R. § 200.85, in accordance with the Property Standards of 2 C.F.R. § 200.311. Notwithstanding, 2 C.F.R. § 200.313, the subrecipients of States will comply with 2 C.F.R. § 1201.313 with respect to the use, management and disposal of equipment acquired under this Agreement.
- b. Maintenance. The Grantee agrees to maintain the Project property and equipment in good operating order, and in accordance with any guidelines, directives, or regulations that FRA may issue.
- c. Records. The Grantee agrees to keep satisfactory records with regard to the use of the property, equipment, and supplies, and submit to FRA, upon request, such information as may be required to assure compliance with this section of this Agreement.
- d. Transfer of Project Property, Equipment or Supplies. The Grantee agrees that FRA may require the Grantee to transfer title to, or direct the disposition of, any property, equipment, or supplies financed with FRA assistance made available by this Agreement, as required by 2 C.F.R. §§ 200.311 – 200.316.
- e. Withdrawn Property, Equipment or Supplies. If any Project property, equipment, or supplies are not used for the Project for the duration of their useful lives, as determined by FRA, whether by planned withdrawal, misuse or casualty loss, the Grantee agrees to notify FRA immediately. Disposition of withdrawn property, equipment, or supplies will be in accordance with 2 C.F.R. §§ 200.311 – 200.316.
- f. Encumbrance of Project Property or Equipment. Unless expressly authorized in writing by FRA, the Grantee agrees not to:
 - 1) Execute any transfer of title, lease, lien, pledge, mortgage, encumbrance, contract, grant anticipation note, alienation, or other obligation that in any way would dispose of or encumber the Grantee's title or other interest in any Project property or equipment; or
 - 2) Obligate itself in any manner to any third party with respect to Project property or equipment. The Grantee will refrain from taking any action or acting in a manner that would adversely affect FRA's interest or impair the Grantee's continuing control over the use of Project property or equipment.

26. Relocation and Land Acquisition:

The Grantee agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. §§ 4601 et seq. and U.S.DOT regulations, Uniform Relocation and Real Property Acquisition for Federal and Federally Assisted Programs, 49 C.F.R. Part 24.

27. Flood Hazards:

The Grantee agrees to comply with the flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. § 4012a(a), with respect to any construction or acquisition Project.

28. Procurement:

- a. Federal Standards. The Grantee may acquire property, goods or services in connection the Project. The Grantee, if a State, will use its own procurement procedures that reflect applicable state laws and regulations, as long as the Grantee conforms to 2 C.F.R. § 200.317. A subrecipient of a State will follow such policies and procedures allowed by the State when procuring property and services under this award consistent with 2 C.F.R. § 1201.317, notwithstanding 2 C.F.R. § 200.317. If an entity is not a State or a subrecipient of a State, it will comply with 2 C.F.R. §§ 200.318 – 200.326, and applicable supplementary U.S. DOT or FRA directives or regulations. If determined necessary for proper Project administration, FRA reserves the right to review the Grantee's technical specifications and requirements.
- b. Cargo Preference -- Pursuant to U.S. DOT, Maritime Administration regulations, 46 C.F.R. Part 381
 - 1) Use of United States-flag vessels:
 - Pursuant to Pub. L. 664 (43 U.S.C. 1241(b)) at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this agreement, and which may be transported by ocean vessel, will be transported on privately owned United States-flag commercial vessels, if available.
 - Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (a)(1) of this section will be furnished to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

- 2) The Grantee will insert the following clauses in contracts let by the Grantee in which equipment, materials or commodities may be transported by ocean vessel in carrying out the Project.

“Use of United States-flag vessels: The contractor agrees -

- 1) To utilize privately owned United States-flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to this contract to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
- 2) To furnish within 20 days following the date of loading for shipments originating within the United States, or within 30 working days following the date of loading for shipment originating outside the United States, a legible copy of a rated, “on-board” commercial ocean bill-of-lading in English for each shipment of cargo described in subsection (1) above to the recipient (through the prime contractor in the case of subcontractor bills-of lading) and to the Division of Cargo Preference and Domestic Trade, Maritime Administration, 1200 New Jersey Avenue, SE, Washington, D.C. 20590, marked with appropriate identification of the Project.
- 3) To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.”

c. Notification Requirement. With respect to any procurement for goods and services (including construction services) having an aggregate value of \$500,000 or more, the Grantee agrees to:

- 1) specify in any announcement of the awarding of the contract for such goods or services the amount of Federal Contribution that will be used to finance the acquisition; and
- 2) express said amount as a percentage of the total costs of the planned acquisition.

d. Debarment and Suspension; and Drug-Free Work Place. The Grantee agrees to obtain certifications on debarment and suspension from its third-party contractors and subrecipients and otherwise comply with U.S. DOT regulations, Nonprocurement Suspension and Debarment, 2 C.F.R. Part 1200, and Government-wide Requirements for Drug-Free Workplace (Grants), 49 C.F.R. Part 32.

e. Reserved.

29. Rights in Intangible Property:

- a. Title to Intangible Property. Intangible property, as defined in 2 C.F.R. § 200.59, acquired in the performance of this Agreement vests upon acquisition in the Grantee. The Grantee must use that property for the originally-authorized purpose, and must not encumber the property without approval of FRA. When no longer needed for the originally-authorized purpose, disposition of the intangible property must occur in accordance with the provisions of 2 C.F.R. § 200.313(e).
- b. Copyright. The Grantee may copyright any work that is subject to copyright and was developed or for which ownership was acquired under this Agreement. FRA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.
- c. Patents. The following provisions will apply to patents under this Agreement:
 - 1) The Grantee is subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 C.F.R. Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements”.
 - 2) If the Grantee secures a patent with respect to any invention, improvement, or discovery of the Grantee or any of its subrecipients or contractors conceived or first actually reduced to practice in the course of or under this Project, the Grantee agrees to grant to FRA a royalty-free, nonexclusive, and irrevocable license to use and to authorize others to use the patented device or process for Federal Government purposes.
- d. Research Data. For any research data (as defined in 2 C.F.R. § 200.315(e)(3)) acquired under a grant or contract, FRA has the right to:
 - 1) Obtain, reproduce, publish, or otherwise use the research data produced under this Agreement; and
 - 2) Authorize others to receive reproduce, publish, or otherwise use such data for Federal Government purposes.
- e. Freedom of Information Act (FOIA). Responding to a FOIA request under this Agreement will be handled in accordance with the provisions of 2 C.F.R. § 200.315(e), including any definitional provisions set forth therein. The “Federal awarding agency” is FRA, and the “non-Federal entity” is the Grantee for purposes of this clause.

30. Acknowledgment of Support and Disclaimer:

- a. Acknowledgement and Disclaimer. An acknowledgment of FRA support and a disclaimer of said support must appear in any Grantee publication developed under a research and development grant, or any other product based on or developed under the Agreement as directed by FRA, whether copyrighted or not, in the following terms:
 - 2) "This material is based upon work supported by the Federal Railroad Administration under [Grant/Cooperative Agreement number], [date of award]."
 - 3) "Any opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the view of the Federal Railroad Administration and/or U.S. DOT."
- b. Signs. The Grantee is encouraged to erect at the site of any construction, and to maintain during construction, signs identifying the Project and indicating that FRA is participating in the development of the Project.

31. Reprints of Publications:

At such time as any article resulting from work under this Agreement is published in a scientific, technical, or professional journal or publication, two reprints of the publication should be sent to the FRA Grant Manager, clearly referenced with the appropriate identifying information.

Documentation and Oversight Provisions

32. Record Retention:

During the course of the Project and for three years after notification of grant closeout, the Grantee agrees to retain intact and to provide any data, documents, reports, records, contracts, and supporting materials relating to the Project as FRA may require. In cases where litigation, a claim, or an audit is initiated prior to the expiration of the three-year period, records must be retained until completion of the action and resolution of issues or the end of the three-year period, whichever is later. Reporting and record-keeping requirements are set forth in 2 C.F.R. §§ 200.333 – 200.337. Project closeout does not alter these requirements.

33. Audit and Inspection.

- a. General Audit Requirements. The Grantee will comply with all audit requirements of 2 C.F.R. §§ 200.500 – 200.512.
- b. Inspection by Federal Officials. The Grantee agrees to permit the Secretary

and the Comptroller General of the United States, or their Authorized Representatives, to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Grantee and its contractors and subrecipients pertaining to the Project.

34. Fraud, Waste or Abuse:

The Grantee agrees to take all steps, including initiating litigation, if necessary, to recover the Federal Contribution if the FRA determines, after consultation with the Grantee, that all or a portion of such funds have been spent fraudulently, wastefully, or in violation of Federal laws, or misused in any manner in undertaking the Project.

35. Site Visits:

FRA, through its Authorized Representatives, has the right, at all reasonable times, to make site visits to review Project activities, accomplishments, and management control systems and to provide such technical assistance as may be required. If any site visit is made by FRA on the premises of the Grantee or subrecipient under this Agreement, the Grantee will provide, and will require its subrecipients to provide, all reasonable facilities and assistance for the safety and convenience of FRA representatives in the performance of their duties. All site visits and evaluations will be performed in such a manner as will not unduly delay work being conducted by the Grantee or any subrecipient.

36. Safety Compliance:

To the extent applicable, the Grantee agrees to comply with any Federal regulations, laws, or policy and other guidance that FRA or U.S. DOT may issue pertaining to safety in general, and in the performance of this Agreement, in particular.

37. Electronic and Information Technology:

The Grantee agrees that reports or information it provides to or on behalf of FRA will use electronic or information technology that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794d, and “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. part 1194.

Other Legislative and Regulatory Provisions

38. Reserved.

39. Ethics:

- a. **Standards of Conduct.** The Grantee will maintain a written code or standards of conduct governing the performance of its officers, employees, board members, or agents engaged in the award and administration of contracts or agreements supported by Federal Contribution provided through this Agreement. The code or standards will provide that the Grantee's officers, employees, board members, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential subrecipients or contractors. The Grantee may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. As permitted by State or local law or regulations, such code or standards will provide for penalties, sanctions, or other disciplinary actions for violations by the Grantee's officers, employees, board members, or agents, or by subrecipients or their agents.
 - 1) **Personal Conflict of Interest.** The Grantee's code or standards must provide that no employee, officer, board member, or agent of the Grantee may participate in the selection, award, or administration of a contract supported by the Federal Contribution if a real or apparent conflict of interest would be involved. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.
 - 2) **Organizational Conflicts of Interest.** The Grantee's code or standards of conduct must include procedures for identifying and preventing real and apparent organizational conflicts of interests. An organizational conflict of interest exists when the nature of the work to be performed under a proposed contract, may, without some restrictions on future activities, result in an unfair competitive advantage to the contractor or impair the contractor's objectivity in performing the contract work.
- b. **Existing Codes or Standards.** This section does not require the Grantee to implement a new code or standards of conduct where a State statute, or written code or standards of conduct, already effectively covers all of the elements of Section 38(a) of this Attachment.

40. Civil Rights:

The Grantee agrees to comply with all civil rights laws and regulations, in accordance with applicable Federal directives. These include, but are not limited to, the following: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) (as implemented by 49 C.F.R. Part 21), which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681- 1683, and 1685-1686), which prohibits discrimination on the basis of sex, (c) section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 1601-1607), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Public Health Service Act of 1912 (42 U.S.C. §§ 290dd through 290dd-2), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing, (i) 49 U.S.C. § 306, which prohibits discrimination on the basis of race, color, national origin, or sex in railroad financial assistance programs; (j) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance was made; and (k) the requirements of any other nondiscrimination statute(s) which may apply to the Grantee.

41. Americans With Disabilities Act:

The Grantee agrees to use funds provided under this Agreement in a manner consistent with the requirements of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. § 12101 et seq.).

42. SAM Registration and DUNS Number:

The Grantee is responsible for maintaining an active System for Award Management (SAM) Registration and Data Universal Numbering System (DUNS) Number and ensuring that all SAM/DUNS information is current throughout the lifecycle of this Agreement, in accordance with 2 C.F.R. § 25.200(a)(2). If SAM/DUNS information becomes inactive, expired, or incorrect, the Grantee will not be able to do any grant-related business with FRA, including the obligation and/or payment of Federal grant funds, and FRA may take appropriate action to terminate this Agreement, in accordance with the terms of this Agreement.

43. Freedom of Information Act:

The FRA is subject to the Freedom of Information Act (FOIA). The Grantee should, therefore, be aware that all applications and related materials submitted by the Grantee related to this Agreement will become agency records and thus are subject to FOIA and to public release through individual FOIA requests.

44. Text Messaging While Driving:

The Grantee is encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies that bar text messaging while driving company-owned or –rented vehicles, or government-owned, leased, or rented vehicles or privately-owned vehicles when on official government business or when performing any work for or on behalf of the Government. See Executive Order 13513 “Federal Leadership on Reducing Text Messaging While Driving,” Oct. 1, 2009 (available at <http://www.gpo.gov/fdsys/pkg/FR-2009-10-06/pdf/E9-24203.pdf>) and DOT Order 3902.10 “Text Messaging While Driving,” Dec. 30, 2009, as implemented by Financial Assistance Policy Letter (No. FAP- 2010-01, Feb. 2, 2010, available at http://www.dot.gov/sites/dot.dev/files/docs/FAPL_2010-01.pdf). This includes, but is not limited to, the Grantee:

- considering new rules and programs or re-evaluating existing programs to prohibit text messaging while driving;
- conducting education, awareness, and other outreach for employees about the safety risks associated with texting while driving; and
- encouraging voluntary compliance with the agency’s text messaging policy while off duty.

The Grantee is encouraged to insert the substance of this clause in all assistance awards.

Where a Grantee is located within a State that already has enacted legislation regarding texting while driving, that State’s law controls and the requirements of this section will not apply to or be a part of this Agreement.

45. Trafficking in Persons:

- a. Provisions applicable to a recipient that is a private entity.
 1. You as the recipient, your employees, subrecipients under this award, and subrecipients’ employees may not—
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or
 - iii. Use forced labor in the performance of the award or subawards under the award.

2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
 - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
 - a) Associated with performance under this award; or
 - b) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 C.F.R. part 1200.
- b. Provision applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—
 - 1) Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
 - 2) Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
 - i. Associated with performance under this award; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 C.F.R. part 1200.
- c. Provisions applicable to any recipient.
 - 1) You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
 - 2) Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7104(g)), and

ii. Is in addition to all other remedies for noncompliance that are available to us under this award.

3) You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions. For purposes of this award term:

1) “Employee” means either:

i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2) “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3) “Private entity”:

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. § 175.25.

ii. Includes:

(a) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R. § 175.25(b).

(b) A for-profit organization.

4) “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).

5) “Recipient” and “subrecipient” include for-profit entities for the purpose of this award term only.

PART IV. GOVERNING LAWS AND REGULATIONS

46. Governing Laws and Regulations:

- a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The Grantee acknowledges and agrees that its performance will be governed by and in compliance with this Attachment, 2 C.F.R. §§ 200 – 200.521, including Appendices I – XI, and DOT’s implementing regulations at 2 C.F.R. part 1201.
- b. Application of Federal, State, and Local Laws and Regulations.
 - 1) Federal Laws and Regulations. The Grantee understands that Federal laws, regulations, policies, and related administrative practices in place on the date this Agreement was executed may be modified from time to time. The Grantee agrees that the most recent of such Federal requirements will govern the administration of this Agreement at any particular time, except if there is sufficient evidence in this Agreement of a contrary intent. Likewise, new Federal laws, regulations, policies and administrative practices may be established after the date the Agreement has been executed and may apply to this Agreement. To achieve compliance with changing Federal requirements, the Grantee agrees to include in all subawards and contracts financed with FRA assistance under this Agreement, specific notice that Federal requirements may change and the changed requirements will apply to the Project, as required. All limits or standards set forth in this Agreement to be observed in the performance of the Project are minimum requirements.
 - 2) State or Territorial Law and Local Law. Except to the extent that a Federal statute or regulation preempts State or territorial law, nothing in this Agreement will require the Grantee to observe or enforce compliance with any provision thereof, perform any other act, or do any other thing in contravention of any applicable State or territorial law; however, if any of the provisions of this Agreement violate any applicable State or territorial law, or if compliance with the provisions of this Agreement would require the Grantee to violate any applicable State or territorial law, the Grantee agrees to notify the FRA immediately in writing in order that FRA and the Grantee may make appropriate arrangements to proceed with the Project as soon as possible.
 - 3) The Recipient shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

c. Environmental Protection. The Grantee will ensure that all work conducted under this Agreement complies with applicable laws, regulations, executive orders, and policies related to environmental protection and historic preservation, including, but not limited to, the National Environmental Policy Act (NEPA) (42 U.S.C. 4332)(NEPA) and its implementing regulations (40 C.F.R. Part 1500 et seq.), FRA's "Procedures for Considering Environmental Impacts" (45 Fed. Reg. 40854, June 16, 1980), as revised May 26, 1999, 64 Fed. Reg. 28545, and as updated in 78 FR 2713, January 14, 2013) and 23 C.F.R. Parts 771 and 774 as deemed applicable to the Project by FRA, section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. 300101 et seq.) and its implementing regulations (36 C.F.R. Part 800), Executive Order No. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. § 303(c)), section 114 of the Clean Air Act (42 U.S.C. 7414), and section 308 of the Federal Water Pollution Control Act (33 U.S.C. § 1318).

d. Fixing America's Surface Transportation Act, section 1105 (23 U.S.C. § 117).