



*“Serving the Transportation Needs of the Southeast Missouri Region”*

REQUEST FOR PROPOSALS PACKAGE  
FOR  
**COMPREHENSIVE SAFETY ACTION PLAN**  
FOR  
THE SOUTHEAST METROPOLITAN PLANNING ORGANIZATION



Partial Funding Provided by the US Department of Transportation

CITY OF CAPE GIRARDEAU, MISSOURI  
SOUTHEAST METROPOLITAN PLANNING ORGANIZATION  
44 NORTH LORIMIER STREET  
CAPE GIRARDEAU, MO 63701  
(573) 339-6734

**All responses are due Friday, August 11, 2023 by 4:00 pm CST.**

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## REQUEST FOR PROPOSALS

### COMPREHENSIVE SAFETY ACTION PLAN

#### FOR

### SOUTHEAST METROPOLITAN PLANNING ORGANIZATION

#### PURPOSE

Roadway accidents continue to be a major concern, leading to significant human, economic, and social costs. The lack of a cohesive and proactive approach to roadway safety has resulted in a high number of preventable incidents, endangering the lives of motorists, pedestrians, and cyclists. Therefore, a focused and well-structured action plan is crucial to mitigate these risks and improve overall road safety. To this end, the Southeast Metropolitan Planning Organization (SEMPO) is soliciting interested consultant teams (Consultants) to submit proposals for a planning project that will develop a Comprehensive Safety Action Plan (CSAP) for the SEMPO Metropolitan Planning Area (MPA). The Plan is to be advanced through coordinated engagement with transportation planning partners, stakeholders, and the traveling public. SEMPO is seeking a Consultant with: (1) recent applicable experience in developing CSAPs; (2) knowledge of issues and concerns related to southeast Missouri and the SEMPO MPA; (3) knowledge of safety enhancement roadway features, low-cost safety enhancing solutions, safety enhancing roadway designs and alterations; and (4) ability to effectively engage the community to identify existing conditions and areas of concern. The selected consultant is expected to have data collection tools sufficient to analyze existing roadway conditions, pedestrian behaviors and travel patterns, vehicular traffic and volume intervals, and anticipated future traffic and pedestrian volumes. SEMPO is willing to work with the selected consultant to acquire the proper licensing of such analytical tools if deemed necessary and/or desired for this planning initiative.

The goal of this project is to deliver a framework of innovative strategies and implementation actions that will ensure a reduction in fatal and serious injury accidents within the SEMPO MPA.

#### ORGANIZATIONAL PROFILE

SEMPO is a metropolitan planning organization (MPO), which is a federally mandated and funded policy-making organization that oversees transportation planning for an urbanized area (UA). As the MPO for the Cape Girardeau – Jackson UA, SEMPO is responsible for meeting the federal metropolitan planning regulations for the specified geographic area that includes the urbanized area of Cape Girardeau-Jackson and portions of unincorporated, non-urbanized areas within Cape Girardeau and Scott Counties in Missouri and Alexander County in Illinois. The approximate population of the MPA is 54,808 according to the 2018 American Communities Survey (ACS) five (5)-year estimate. The MPA covers approximately 117 square miles, with 111.7 square miles in Cape Girardeau County, 4.7 in Alexander County, and 0.6 in

Scott County. SEMPO is comprised of a Board of Directors, a Technical Planning Committee (TPC), and the planning and administrative staff.

## PROJECT BACKGROUND

Development of this plan is funded in part by an Action Plan Grant through the US Department of Transportation (USDOT) as well as a local match as provided by SEMPO voting member entities. Through a competitive selection process, SEMPO was awarded a Safe Streets and Roads for All (SS4A) grant through the USDOT for the development of a CSAP to be conducted throughout the SEMPO MPA. The total federal grant award is \$160,000, administered by the Federal Highway Administration (FHWA). As a required local match, SEMPO member entities are collectively contributing \$40,000 toward the project for a total not-to-exceed project budget of \$200,000.

## PROJECT OVERVIEW

SEMPO anticipates a project that includes the activities outlined within the Project Scope section below; however, applicants should detail a clear project approach that will effectively assess the needs of the SEMPO MPA and meet SEMPO's purpose of creating a Plan with a vision, goals, and action-based strategies and recommendations. Core elements of the plan are guided by the USDOT definition of a Safety Action Plan, and are called out within the anticipated tasks within the Project Scope. Each plan component should be addressed within the proposed project approach. The final planning document must satisfy the USDOT requirements for a Safety Action Plan as detailed within the SS4A program. SEMPO staff will work with the successful Consultant to incorporate a mutually agreeable project scope into the contract. Regular, on-going communication with SEMPO staff will be expected throughout the project to coordinate efforts, including monthly invoices and progress reports. The Consultant should also expect meetings with stakeholders, the general public, a Plan Development Advisory Committee (PDAC), being a special committee tasked with oversight of project development and comprised of SEMPO member representatives and select stakeholders, and a final presentation before the SEMPO Board of Directors.

The selected Consultant will be expected to understand all program requirements of the Safe Streets and Roads for All (SS4A) Action Plan Grant and the Notice of Funding Opportunity (NOFO) Assistance Listing # 20.939. An understanding of the required Federal, USDOT, and Missouri Department of Transportation (MoDOT) guidance including the National Roadway Safety Strategy (NRSS), the Safe System Approach, Executive Order 14008, Tackling the Climate Crisis at Home and Abroad (86 FR 7619), Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (86 FR 7009), the President's greenhouse gas reduction, climate resilience, Rural Opportunities to Use Transportation for Economic Success (ROUTES) initiative, the Justice40 Initiative, the FHWA Highway Safety Improvement Program (HSIP), MoDOT Strategic Highway Safety Plan (Show-Me Zero), MoDOT – Bicycle, Pedestrian, and ADA Overview, and related State and Federal programs is required.

The Consultant will also be expected to review and have working knowledge of SEMPO planning documents pertinent to this study. Such documents include: SEMPO’s 2021 - 2045 Metropolitan Transportation Plan (MTP), 2024 – 2027 Transportation Improvement Program (TIP), Regional Bicycle and Pedestrian Plan (RBPP), ADA Transition Framework Plan for both the City of Jackson and the City of Cape Girardeau, Public Transit – Human Services Transportation Coordination Plan (PT-HSTCP), Public Participation Plan, Jackson Main Street Pedestrian Safety Study, Jackson Citywide Transportation Plan, Jackson Comprehensive Plan, City of Cape Girardeau Comprehensive Plan, and the City of Cape Girardeau Complete Streets Policy.

**SCOPE OF WORK**

- 1) **Project Initiation.** An internal project kick-off meeting will be held by the consultant with the PDAC. The technical and logistical elements of the CSAP will be reviewed. A project start-up meeting will be held by the consultant with the SEMPO Technical Planning Committee and members of the PDAC. This will include a review and discussion of the approach to roadway safety analysis, coordination with FHWA, MoDOT, local government partners, the public involvement process, and additional topics relevant to project start-up. A project website and data tracking dashboard tools will be developed by the consultant and used throughout the study process to ensure the accessibility, transparency, and documentation of the planning process for public information.
  
- 2) **Work Plan Timeline and Plan Development.** The SS4A grant agreement between the USDOT and SEMPO outlines specific milestones in which the CSAP is to be completed in draft form, finalized with all pertinent comments and feedback, adopted by the SEMPO Board of Directors, and a final report submitted to the USDOT.

Milestone	Schedule Date
Planned Draft Action Plan Completion Date:	9/30/2024
Planned Action Plan Completion Date:	12/31/2024
Planned Action Plan Adoption Date:	1/31/2025
Planned SS4A Final Report Due:	3/31/2025

Based on the proposed scope of work and incorporating any applicable modifications discussed during contract negotiations, the consultant will develop an elaborate work plan and an achievable timeline for the CSAP. This plan will delineate the overarching strategy, along with specific tasks and initiatives that will be undertaken throughout the project, ultimately leading to a successful completion of the study.

- 3) **Project Management and Coordination.** The consultant will assume the responsibility of overseeing the study and coordinating with any subconsultants, while also ensuring all documentation and equipment requirements are met. Within their team,

the consultant will designate a project lead who will serve as the main point of contact for the SEMPO Executive Director and PDAC.

This task will encompass conducting regular progress meetings with SEMPO, preparing monthly progress reports, documenting travel and expense receipts, and generating and submitting invoices. When submitting progress reports, the consultant will be obliged to include the following details:

- Completed tasks;
- Upcoming tasks or milestones;
- Status of the project's scope and schedule; and
- Any potential issues that may arise in the future.

Development of the CSAP will be guided by a PDAC, which will provide oversight and input into study assessments, analysis, policies, and recommendations.

The consultant will assume the responsibility of preparing and organizing all activities related to data collection, data analysis, technical memoranda, and draft documents for the PDAC. SEMPO will be responsible for managing and arranging PDAC meetings, as well as aiding the consultant in agenda development. The consultant is expected to collaborate closely with SEMPO to coordinate and distribute relevant materials to the PDAC as per the consultant's assigned tasks, and will also be accountable for documenting meeting minutes.

**4) Stakeholder and Public Engagement Program.** In compliance with SEMPO's adopted Public Participation Plan (PPP), the consultant will develop and implement a detailed stakeholder and public engagement program that seeks to gain authentic and meaningful public input from community members across the SEMPO MPA. A strong emphasis shall be placed on equity and outreach to historically marginalized communities, economically disadvantaged communities, and areas of persistent poverty in the region. At minimum, the stakeholder and public engagement program should address the following:

- Identification of, and engagement activities for, key communities that may be disproportionately impacted by traffic risks and traditionally underserved by safety efforts;
- Specific activities for reaching identified stakeholder groups and engagement strategies that inform, involve, and empower stakeholders and the public;
- Examination of perceived safety culture and concerns in the SEMPO MPA;
- Timeline for stakeholder and public engagement activities;
- Communication methods for sharing information with residents and community members; and
- Strategy for effective and consistent messaging.

The consultant is encouraged to utilize creative methods, opportunities, and activities when collaborating, engaging, and informing stakeholders and the public, especially for communities disproportionately impacted and traditionally underserved.

- 5) **Incident Data Collection and Review.** The consultant will perform an analysis of existing conditions and historical trends that provides a baseline level of crashes involving fatalities and serious injuries across the SEMPO MPA. A benchmark crash data analysis for all roadways (to the extent practical, the analysis should include all roadways within the jurisdiction, without regard for ownership) will be performed. Six (6) years of reportable crash data will be included for all public roads. This will include an analysis of locations where there are crashes and the severity of the crashes, as well as contributing factors and crash types by relevant road users (motorists, people walking, transit users, etc.).

Based on the conducted analysis, a geospatial identification of higher-risk locations, referred to as a High Injury Network or an equivalent, will be developed. The benchmark crash data will encompass the geographical coordinates of crashes, accompanied by relevant attribute data in a usable format such as MS Excel, ArcGIS, or a mutually agreed-upon format. The data will be presented in the form of tables and maps, highlighting crash types and contributing factors, as well as making comparisons with crash frequency data from other regions in Missouri or comparable benchmark localities. Initial crash rates will be calculated based on the regional Vehicle Miles of Travel (VMT). The benchmark crash data will include incidents involving alternative modes of transportation (pedestrians, bicyclists, public transit users, etc.) and crashes occurring within underserved communities in the SEMPO MPA, with a focus on identifying any disproportionate safety impacts.

- 6) **Roadway Safety Analysis.** The consultant is to propose the approach to the Roadway Safety Analysis including a method for developing average crash rates for local roads by type. Potential approaches include developing crash rates using traffic volume, per capita, per mile, or other metrics which can be applied uniformly. Average crash rates can be developed at the local, county, or regional level by road type or through another metric. The MoDOT website contains useful data on traffic volumes on many state, county, special road district, and higher volume local roadways as well as crash statistics through the Transportation Management Systems (TMS) portal which can be utilized to provide additional data.

The data analysis conducted to support this task should consider site-specific locations with above-average crash histories, particularly in underserved communities. Systemic or corridor-based analysis tools that might identify high-risk characteristics of roadways for which countermeasures might exist must be included. Particular attention should be paid to the review of fatal and serious injury crashes. The objective of this plan component is to assess the transportation system at a much greater level of detail than in the MoDOT Strategic Highway Safety Plan (Show-Me Zero), by clearly identifying and articulating local problems. Analysis of systemic and specific safety needs is also performed, as needed

(e.g., high-risk road features, specific safety needs of relevant road users, public health approaches, analysis of the built environment, demographic, and structural issues, etc.). The findings will be used to guide the development of focus areas in the Safety Plan and locations to be considered for safety investigations.

The consultant will be responsible for developing appropriate graphics to communicate the crash data as part of the existing conditions section of the CSAP and for use in presentations, on websites, and in press releases. **It should be noted** that location-based crash data on maps is considered sensitive data. The consultant should suggest the types of mapped data and the level of detail which is useful but be cognizant of the sensitivity and suggest how it is to be made available to the public plan documents and at meetings. Baseline, benchmarking, and roadway safety analysis data will be posted to the project website during plan development and on SEMPO's website following completion of the plan as part of a dashboard and tracking presentation.

- 7) **Transportation Equity Review.** The CSAP will be developed using inclusive and representative processes to pursue a holistic approach to advancing equity for all, particularly focusing on individuals who belong to underserved communities. The CSAP will address the disproportionate, adverse safety impacts that affect certain groups on roadways, particularly individuals walking and biking in underserved communities. Underserved communities will be identified through available data and sources such as the USDOT Equitable Transportation Community (ETC) Explorer Tool, US Census, USDOT Transportation Disadvantaged Communities Tool, USDOT Planning and Equity Tool, and the Environmental Protection Agency (EPA) Environmental Justice Screening and Mapping Tool. This should include an analysis of systems, services, and processes that support safe and easy-to-use multimodal options, amenities that are accessible to all populations for reaching destinations independently, and strategies to reduce socioeconomic disparities experienced by underserved and underrepresented communities.

As part of this plan component, the consultant should develop and assess regional transportation indicators that easily measure transportation barriers in the SEMPO MPA and/or potential structural inequalities that different population groups may face. These indicators should include, at minimum:

- Accessibility;
- Connectivity;
- Effectiveness;
- Environment;
- Health;
- Mobility;
- Safety;
- Level of community engagement; and
- Other equity indicators, as required.



- 8) Climate Change, Sustainability, and Economic Competitiveness.** As climate change continues to reshape the environment, its future effects on roadway safety will be considered. Vulnerable roadway transportation systems and infrastructure undergoing severe weather events, experience disruption often by reducing traffic mobility, increasing weather-related crash risk, and delaying evacuation processes compromising roadway safety for all users. In addition to causing closures or delays, extreme rain, snow, fog, ice, heat, etc., may damage facilities, compromise roadway safety, and contribute to road fatalities. The consultant will consider the effects of climate change and extreme weather events and incorporate, where feasible, safety-based countermeasures, evidence-based practices, and policy changes that should also work toward mitigating climate change effects and increasingly extreme weather events. The SEMPO MPA is in an attainment area for Air Quality, therefore not subject to Congestion Mitigation and Air Quality Improvement Standards. Nonetheless, the consultant will consider reducing motor-vehicle related pollution such as air pollution and greenhouse gas emissions, incorporate lower-carbon pavement and construction materials, support fiscally responsible land use and transportation efficient design that reduce greenhouse gas emissions, and include stormwater management practices and other climate resilience measures or features such as nature-based solutions that improve the built and/or natural environment while enhancing resilience in the context of analysis and output for the CSAP. Drawing from the data, stakeholders, and community feedback, the consultant will identify the disproportionate impacts on underserved communities and propose strategies or policy recommendations addressing any inequities as it relates to climate change, sustainability, and economic competitiveness.
- 9) Dashboard and Toolkit.** The consultant will establish a process and create a publicly accessible tracking mechanism in the form of a dashboard or other appropriate format as a means to monitor safety outcomes and evaluate which safety measures are most effective throughout the SEMPO MPA. The consultant will also develop a safety toolkit with graphic visualizations that illustrate safety countermeasures, context-sensitive design solutions, and user educational components tailored for the region.
- 10) Implementation Matrix.** The consultant will develop an implementation matrix that identifies potential projects, strategies, and recommendations for future grant opportunities. The implementation matrix will recognize the needs of all users of the regional transportation system, potential projects that are feasible and applicable for grant funding, conceptual infrastructure improvements with estimated costs, and schedule for implementation. Strategies and recommendations shall consider and outline fiscal and staff time resources necessary for a continued, sustained, and successful effort to achieve traffic safety goals and meet SS4A objectives after plan adoption. A project readiness timeline for each strategy and project should be included for short-term (0-5 years), mid-term (5-10 years), and long-term (10+ years).
- 11) Administrative Draft and Final Plan.** The consultant will prepare an administrative draft of the CSAP for review and comment by the PDAC, SEMPO Technical Planning

Committee, and SEMPO Board of Directors. This draft is to be provided as an electronic PDF to SEMPO members. Upon review of the draft plan, SEMPO will release the document for public comment. Comments received from SEMPO and the public will be incorporated into the final plan.

Upon final review and consent by the PDAC, the consultant will develop a final report that is visually appealing, easy for policymakers and stakeholders to understand, and communicates action plan strategies and recommendations. The report should be able to be used both digitally and in hard copy format.

Specifically, the consultant should develop a final report that:

- Is organized and communicates a clear message both graphically and with accompanying text;
- Is easy to read and understand; and
- Explains key implications as they relate to policies, programs, practices, strategies, infrastructure projects, funding, and other recommendations.

The consultant shall provide SEMPO with appropriate presentation materials for final review and approval of the CSAP by the SEMPO Board of Directors. The Consultant shall be responsible for presenting the final plan to the SEMPO Board of Directors prior to the plan approval.

**12) Executive Summary/Fact Sheet.** Upon completion of the CSAP, the consultant shall develop a brief executive summary or fact sheet in PDF format which relays all pertinent information in an easy-to-follow format. The summary should be concise and highly graphic, highlighting major assumptions, strategies, and recommendations.

**13) Deliverables.** Upon final project completion, the consultant will be responsible for providing a high-resolution document in **PDF format and eight (8) bound hard copies**. The consultant is also expected to provide SEMPO with all data and study products. All meeting summaries and technical analysis should be included as an appendix of the study.

NOTE: If the consultant wishes to modify or include additional tasks deemed necessary to complete the study, this must be agreed to by SEMPO before issuing the notice to proceed.

## PROPOSAL SUBMITTAL REQUIREMENTS

All proposals must include the following information:

1. **Proposal Length:** Proposals shall not exceed 40 pages, including the cover sheet.
2. **Cover Sheet:** The cover sheet shall list the name of the Consultant with names, email addresses and phone numbers of persons who may be contacted to answer questions. Also, the cover sheet shall state who prepared the submittal and how they can be reached including phone number and email address.

3. **Project Understanding:** Provide a brief narrative explaining the team’s understanding of the project goals and scope. Highlight the perceived unique opportunities, challenges, and priorities of this project and how the team will address them.
4. **Project Team and Qualifications:** The Consultant qualification information shall include:
  - a. **Firm Information:** Provide information on firm size, years in business, locations, and primary services. Include the same information for any subcontractors on this project.
  - b. **Project Team:** Provide a project organizational chart showing the proposed team structure for this contract. Identify the project manager, key personnel, and their roles and responsibilities on the project. Include short bios addressing knowledge and experience related to these roles and responsibilities. Clearly identify the roles of any subcontractors.
  - c. **Representative Projects:** Describe specific experience of both individuals and firms with projects of a similar type that demonstrate the knowledge and experience of the personnel proposed in the areas identified in the scope of work. Describe the client/community, project, location, common issues, and links to electronic versions of work products, if possible.
  - d. **References:** Identify at least three references for similar projects completed by the personnel proposed for this project. Include the client, contact person, mailing address, email address, and telephone number for each reference.
  - e. **Resume:** Provide professional resumes for all personnel proposed for work on this project in an appendix.
5. **Project Approach:** Describe the team’s approach to the project’s scope of work. Include information on methods, meetings, deliverables, and other project related information for the tasks. Include any project approaches or ideas not included in the scope of work that would be applied to this project to enhance the quality of the team’s services. The Consultant is encouraged to offer additional insights and may propose modifications to the scope of work identified above.
6. **Project Management:** Describe the team’s project management approach including coordination across disciplines and managing the work of subcontractors, if applicable. Describe the methods and timeline of communication the team will use with SEMPO staff and other parties. Describe the team’s expectations and requirements of SEMPO and its partners in order to effectively perform the services outlined in the RFP.
7. **Schedule:** Provide a project schedule identifying milestones and completion dates. Provide a summary of personnel workload and availability to complete this project within the desired schedule.
8. **Cost Proposal:** Utilizing the Cost Proposal Form in **Exhibit A**, estimate the personnel hours and hourly rates for each of the tasks needed to complete the proposed scope of work. Include the hourly rates for all project personnel and the costs for each firm. Provide cost estimates for labor, overhead/indirect costs, subcontractor costs, materials and supplies

costs, travel costs, fixed fees, and other cost elements expected to be incurred. Some tasks can be itemized as “optional” and be bid independently to allow flexibility in fee. The proposal should clearly state what is received for the base fee.

**All responses are due Friday, August 11, 2023 by 4:00 pm CST.** Proposals shall be submitted electronically in PDF format via email sent to [amcelroy@cityofcape.org](mailto:amcelroy@cityofcape.org), uploaded to Consultant’s FTP site with download access and instructions emailed, or placed on a USB drive and delivered to:

Southeast Metropolitan Planning Organization  
C/O Alex McElroy, SEMPO Executive Director  
City of Cape Girardeau  
44 North Lorimier Street  
Cape Girardeau, MO 63701

## SELECTION PROCESS

The proposal evaluation process will be managed by the PDAC, comprised of SEMPO members, staff, and other representatives as determined. SEMPO expects to complete an initial assessment of the proposals by **August 25, 2023**. Following this initial review, firms may be invited to engage in scheduled interviews for further evaluation. Subsequently, the PDAC will gather input from the Technical Planning Committee and employ a standardized scoring system to evaluate each consultant. The scoring system's criteria and weighting for initial reviews and potential interviews are as follows:

### Point Range Legend

30 – 21 = excellent      20-11 = adequate      10 – 1 = fair      0 = inadequate

- 1. Experience and Technical Competence (30 points max):** Rate the qualifications of employees designated to this specific job, for example, assigning between 30 and 21 points for the most qualified personnel. Those rated between 20 and 11 points are considered good but lack extensive experience in the particular type of service desired. A value of 10 or less points is assigned to firms with well-qualified personnel who have no experience in the proposed area of work.
- 2. Capacity and Capability (30 points max):** Evaluate the consulting firm for experience on similar and related types of work it has performed. For example, assigning between 30 and 21 points is for many years of established practice in the proposed type of work and related studies. A value of between 20 and 11 points may be assigned for above average experience, while 10 or less points may be given for experience adequate to perform the contract. The points for a firm with little operating experience in the selected field may be reduced further. Reduce the rating for a level of personnel inadequate to handle the firm’s indicated workload. The submitted schedule will also be evaluated as part of this portion of the rankings.

3. **Past Record and Performance (30 points max):** Rate the adequacy of firms that have previously performed work under contract in related fields, assigning a maximum and reducing the points for less experience.

The Consultant with the highest total score will be asked to enter into negotiations for a contract based on their proposal. If a contract cannot be successfully negotiated with the first selected Consultant, then negotiations with that Consultant will be terminated and SEMPO will ask the Consultant with the next highest score to enter into negotiations. This process will continue until a contract is successfully negotiated or said process is suspended by SEMPO.

The City of Cape Girardeau, Missouri (City) provides staffing and administrative services for SEMPO. By submitting a proposal, Consultants acknowledge and agree that if they are selected to enter into contract negotiations, such contract will be between that Consultant and the City, and all financial transactions will be conducted by the City on behalf of SEMPO.

SEMPO reserves the right to follow any of the below listed courses of action if an acceptable contract cannot be negotiated:

- To reject any and all proposals;
- To consider alternatives;
- To waive irregularities;
- To re-solicit proposals;
- To accept any proposals deemed most advantageous to SEMPO;
- To obtain information concerning any and all Consultants from any source;
- To request additional information and/or clarification from any and all proposers to this RFP;
- To approve any substitute personnel or terminate services at SEMPO's sole discretion if the selected Consultant undergoes a change of key personnel; and
- To seek new submissions when such a procedure is reasonable and in the best interests of SEMPO.

SEMPO operates its programs and services without regard to race, sex, religion, age, national origin, or disability, in accordance with Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act of 1990, as amended. The successful Consultant shall provide written assurance that no person shall be denied employment or fair treatment, or in any way discriminated against, on the basis of race, sex, religion, age, national origin, or disability. In addition, since federal funds will be used to finance this project, the successful Consultant shall comply with all civil rights and federal contracting requirements applicable to transportation-related projects. For more information, refer to the attached Federally Required Contract Terms.

The City and SEMPO are not liable for any cost incurred by any person or firm responding to this RFP or for any other cost incurred prior to the negotiation of the contract and the issuance of a Notice to Proceed.

The submission of a proposal shall be prima facie evidence that the consultant has full knowledge of the scope, nature, quantity, and quality of work to be performed.

After the selection process, the SEMPO staff shall negotiate on behalf of SEMPO and the City, a contract based on the fees and fee structure as submitted in the proposal. SEMPO reserves the right to delete elements or expand the scope of the contract based on the negotiated fees at the time of contract letting.

Consultants submitting proposals are advised to include any information that is relevant to this project given the aforementioned criteria.

## GENERAL INFORMATION

### **Minimum Effective Period of Proposal**

All proposals are required to remain in effect for at least 120 days from the date submitted to SEMPO for review. This should be taken into account during budget preparations.

### **Public Information**

All information, documentation, and other materials submitted in response to this solicitation are considered non-confidential and/or non-proprietary and are subject to public disclosure in accordance with the Missouri Open Meetings and Records Law.

### **Lobbying Restriction**

Consultant acknowledges and accepts that from the Date of Issuance of the RFP until a final decision has been made by the City, it will not take any action, make any effort, or support or engage others on its behalf to take actions or efforts with attempt to influence the decision making process for this RFP in the favor of the Consultant. This includes direct contact with the City Council, City Manager, and City staff of the City of Cape Girardeau, members of the SEMPO Board of Directors, members of the Transportation Planning Committee (TPC), sub-recipients, and others who may be engaged in the selection process, except for the point of contact, Alex McElroy. Additionally, the Consultant acknowledges and accepts that it will not attempt to use public communication such as the news media, social media, etc. as a means of attempting to influence the RFP evaluation or decision-making process. Any Consultant violating any of the aforementioned conditions is subject to immediate disqualification from consideration.

### **Acceptance of Evaluation Methodology**

By submitting a proposal, Consultant accepts the evaluation process and acknowledges and accepts that the determination of the “most qualified” firm(s) will require subjective judgments by SEMPO.

**Amendments to this RFP**

Should it become necessary to amend this RFP for any reason, SEMPO reserves the right to re-issue this RFP as amended and to provide reasonable notification to parties of interest.

**Public Records**

All proposals submitted in response to this RFP become the property of SEMPO and as such, they will be public records in accordance with the Missouri Open Meetings and Records Law.

**Conflict of Interest**

In order to avoid any potential conflict of interest, the Consultant agrees during the term of this Agreement not to undertake any activities which could conflict directly or indirectly with the interest of SEMPO. Consultant shall immediately advise SEMPO of any such conflict of interest. SEMPO shall make the ultimate determination as to whether a conflict of interest exists.

**Debarment**

By submitting a proposal, Consultant certifies that it is not currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of Missouri or the Federal government.

**Questions Regarding This RFP**

Any questions concerning this RFP should be directed to Alex McElroy, SEMPO Executive Director, at (573) 339-6734 or email [amcelroy@cityofcapegirardeau.org](mailto:amcelroy@cityofcapegirardeau.org). If there are changes that might affect the preparation of the Consultants' submissions, all Consultants will be advised. Any Consultant that wishes to withdraw from consideration after submitting a proposal must submit a written notification to Alex McElroy via email at [amcelroy@cityofcape.org](mailto:amcelroy@cityofcape.org) or via mail at the City of Cape Girardeau, 44 North Lorimier Street Cape Girardeau, MO 63701.

**Accommodations for Disabilities**

For persons with disabilities requiring reasonable accommodations, please contact:

Southeast Metropolitan Planning Organization

C/O Alex McElroy, Executive Director

City of Cape Girardeau

44 North Lorimier Street

Cape Girardeau, MO 63701

(573) 339-6734

[amcelroy@cityofcape.org](mailto:amcelroy@cityofcape.org)

Requests for accommodations should be made at least one week prior to the meeting, activity, or function.

**Thank You For Your Interest In This Project!**

**EXHIBIT A – COST PROPOSAL FORM**

Cost Proposal Form – Include completed cost form (see below) in a separate sealed envelope – labeled “Sealed Cost Form – Vendor Name” and submit concurrently with the technical proposal as part of the overall RFP response. The cost estimate should be based on a not to exceed basis and may be further negotiated by Metro COG upon identification of the most qualified contractor. Changes in the final contract amount and contract extensions are not anticipated.

**REQUIRED BUDGET FORMAT**  
Summary of Estimated Project Cost

<b>1.</b>	<b>Direct Labor</b>	<b>Hours</b>	<b>X</b>	<b>Rate</b>	<b>=</b>	<b>Project Cost</b>	<b>Total</b>	
	Name, Title, Function	0.00	X	0.00	=	0.00	0.00	
			X		=	0.00	0.00	
			X		=	0.00	0.00	
				Subtotal	=	0.00	0.00	
<b>2.</b>	<b>Overhead/Indirect Cost (expressed as indirect rate x direct labor)</b>							
<b>3.</b>	<b>Subcontractor Costs</b>							
<b>4.</b>	<b>Materials and Supplies Cost</b>							
<b>5.</b>	<b>Travel Cost</b>							
<b>6.</b>	<b>Fixed Fee</b>							
<b>7.</b>	<b>Miscellaneous Costs</b>							
<b>Total Cost</b>					<b>=</b>	<b>0.00</b>	<b>0.00</b>	



## **EXHIBIT B - USDOT SS4A PLAN DEVELOPMENT - ELEMENTS FOR A SS4A ACTION PLAN**

A complete Action Plan will include the following tasks:

A successful CSAP will demonstrate engagement with a variety of public and private stakeholders and seek to adopt innovative technologies and strategies to:

- Promote safety to prevent death and serious injuries on public roadways for all road users;
- Employ low-cost, high-impact strategies that can improve safety over a wider geographic area;
- Ensure equitable investment in the safety needs of underserved communities, which includes both underserved urban and rural communities;
- Incorporate evidence-based projects and strategies and adopt innovative technologies and strategies;
- Demonstrate engagement with a variety of public and private stakeholders; and
- Align with the USDOT's mission and with priorities such as safety, equity and Justice 40, climate change and sustainability, quality job creation, and economic strength and global competitiveness.

A completed CSAP will allow SEMPO and member entities to seek implementation grant awards for projects and strategies that save lives and reduce roadway fatalities and serious injuries; incorporate equity, engagement, and collaboration into how projects and strategies are executed; use effective practices and strategies; and consider climate change, sustainability, and economic competitiveness in project and strategy implementation.

### **Leadership Commitment and Goal Setting**

An official public commitment (e.g., resolution, policy, ordinance, etc.) by a high-ranking official and/or governing body (e.g., Mayor, City Council, Tribal Council, MPO Policy Board, etc.) to an eventual goal of zero roadway fatalities and serious injuries. The commitment must include a goal and timeline for eliminating roadway fatalities and serious injuries achieved through one, or both, of the following: (1) the target date for achieving zero roadway fatalities and serious injuries, OR (2) an ambitious percentage reduction of roadway fatalities and serious injuries by a specific date with an eventual goal of eliminating roadway fatalities and serious injuries.

- Are both of the following true:
  - a. Did a high-ranking official and/or governing body in the jurisdiction publicly commit to an eventual goal of zero roadway fatalities and serious injuries?

- b. Did the commitment include either setting a target date to reach zero, OR setting one or more targets to achieve significant declines in roadway fatalities and serious injuries by a specific date?

### **Planning Structure**

A committee, task force, implementation group, or similar body charged with oversight of the Action Plan development, implementation, and monitoring.

- In development of the CSAP, a committee, task force, implementation group, or similar body established and charged with the plan's development, implementation, and monitoring.

### **Safety Analysis**

Analysis of existing conditions and historical trends that provides a baseline level of crashes involving fatalities and serious injuries across the SEMPO MPA. Includes an analysis of locations where there are crashes and the severity of the crashes, as well as contributing factors and crash types by relevant road users (motorists, people walking, transit users, etc.). Analysis of systemic and specific safety needs is also performed, as needed (e.g., high-risk road features, specific safety needs of relevant road users, public health approaches, analysis of the built environment, demographic, and structural issues, etc.). To the extent practical, the analysis should include all roadways within the jurisdiction, without regard for ownership. Based on the analysis performed, a geospatial identification of higher-risk locations is developed (a High-Injury Network or equivalent).

- Does the Action Plan include all of the following?
  - a. Analysis of existing conditions and historical trends to baseline the level of crashes involving fatalities and serious injuries across a jurisdiction, locality, Tribe, or region;
  - b. Analysis of the location(s) where there are crashes, the severity, as well as contributing factors and crash types;
  - c. Analysis of systemic and specific safety needs is also performed, as needed (e.g., high risk road features, specific safety needs of relevant road users; and
  - d. A geospatial identification (geographic or locational data using maps) of higher risk locations.

### **Engagement and Collaboration**

Robust engagement with the public and relevant stakeholders, including the private sector and community groups, that allows for both community representation and feedback. Information received from engagement and collaboration is analyzed and incorporated into the Action Plan. Overlapping jurisdictions are included in the process. Plans and processes are coordinated and aligned with other governmental plans and planning processes to the extent practical.

- Did the Action Plan development include all of the following activities?
  - a. Engagement with the public and relevant stakeholders, including the private sector and community groups;
  - b. Incorporation of information received from the engagement and collaboration into the plan; and
  - c. Coordination that included inter- and intragovernmental cooperation and collaboration, as appropriate.

### **Equity Considerations**

Plan development using inclusive and representative processes. Underserved communities are identified through data and other analyses in collaboration with appropriate partners. Analysis includes both population characteristics and initial equity impact assessments of the proposed projects and strategies.

- Did the Action Plan development include all of the following?
  - a. Considerations of equity using inclusive and representative processes;
  - b. The identification of underserved communities through data; and
  - c. Equity analysis, in collaboration with appropriate partners, focused on initial equity impact assessments of the proposed projects and strategies, and population characteristics.

### **Policy and Process Changes**

Assessment of current policies, plans, guidelines, and/or standards (e.g., manuals) to identify opportunities to improve how processes prioritize transportation safety. The Action Plan discusses implementation through the adoption of revised or new policies, guidelines, and/or standards, as appropriate.

- Are both of the following true?
  - a. The plan development included an assessment of current policies, plans, guidelines, and/or standards to identify opportunities to improve how processes prioritize safety; and
  - b. The plan discusses implementation through the adoption of revised or new policies, guidelines, and/or standards.

### **Strategy and Project Selections**

Identification of a comprehensive set of projects and strategies, shaped by data, the best available evidence and noteworthy practices, as well as stakeholder input and equity considerations, that will address the safety problems described in the Action Plan. These strategies and countermeasures focus on a Safe System Approach, effective interventions, and consider multidisciplinary activities. To the extent practical, data limitations are identified and mitigated. Once identified, the list of projects and strategies is prioritized in a list that

provides time ranges for when the strategies and countermeasures will be deployed (e.g., short-, mid-, and long-term timeframes). The list should include specific projects and strategies, or descriptions of programs of projects and strategies, and explains prioritization criteria used. The list should contain interventions focused on infrastructure, behavioral, and/or operational safety.

- Does the plan identify a comprehensive set of projects and strategies to address the safety problems identified in the Action Plan, time ranges when the strategies and projects will be deployed, and explain project prioritization criteria?

### **Progress and Transparency**

Method to measure progress over time after an Action Plan is developed or updated, including outcome data. Means to ensure ongoing transparency is established with residents and other relevant stakeholders. Must include, at a minimum, annual public and accessible reporting on progress toward reducing roadway fatalities and serious injuries, and public posting of the Action Plan online.

- Does the plan include all of the following?
  - a. A description of how progress will be measured over time that includes, at a minimum, outcome data
  - b. The plan is posted publicly online.

**EXHIBIT C – USDOT GENERAL TERMS AND CONDITIONS**

**U.S. DEPARTMENT OF TRANSPORTATION**  
**GENERAL TERMS AND CONDITIONS UNDER THE FISCAL YEAR 2022**  
**SAFE STREETS AND ROADS FOR ALL (SS4A) GRANT PROGRAM:**  
**FHWA PROJECTS**

Revision date: March 28, 2023

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## GENERAL TERMS AND CONDITIONS

The Infrastructure Investment and Jobs Act (Pub. L. 117–58, November 15, 2021; also referred to as the “Bipartisan Infrastructure Law” or “BIL”) established the Safe Streets and Roads for All (SS4A) Discretionary Grant Program (BIL Section 24112) and appropriated funds to the United States Department of Transportation (the “USDOT”) under Division J, Title VIII of BIL to implement the program. The funds are available to provide Federal financial assistance to support local initiatives to prevent death and serious injury on roads and streets, commonly referred to as “Vision Zero” or “Toward Zero Deaths” initiatives.

The USDOT published a Notice of Funding Opportunity (the “NOFO”) to solicit applications for Federal financial assistance in Fiscal Year 2022 for the SS4A Discretionary Grant Program (87 Fed. Reg. 31606 (May 24, 2022; subsequently amended in 87 Fed. Reg. 47818 on August 4, 2022).

These general terms and conditions are incorporated by reference in a project-specific grant agreement under the fiscal year 2022 SS4A grant program. Articles 1–6 are in the project-specific portion of the agreement. The term “Recipient” is defined in the project-specific portion of the agreement. Attachments A through D are project-specific attachments.

### ARTICLE 7 PURPOSE

**7.1 Purpose.** The purpose of this award is to improve roadway safety by significantly reducing or eliminating roadway fatalities and serious injuries through safety action plan development or projects focused on all users, including pedestrians, bicyclists, public transportation users, motorists, personal conveyance and micromobility users, and commercial vehicle operators. The parties will accomplish that purpose by achieving the following objectives:

- (1) timely completing the Project; and
- (2) ensuring that this award does not substitute for non-Federal investment in the Project, except as proposed in the Grant Application, as modified by section 3.3 and Attachment B.

### ARTICLE 8 USDOT ROLE

#### **8.1 Division of USDOT Responsibilities.**

- (a) The Office of the Secretary of Transportation is ultimately responsible for the USDOT’s administration of the SS4A Grant Program.

- (b) The Federal Highway Administration (the “FHWA”) will administer this grant agreement on behalf of the USDOT. In this agreement, the “**Administering Operating Administration**” means the FHWA.

**8.2 USDOT Program Contacts.**

FHWA Safe Streets and Roads for All  
Federal Highway Administration  
Office of Safety  
1200 New Jersey Avenue SE  
HSA-1, Mail Drop E71-117  
Washington, DC 20590  
SS4A.FHWA@dot.gov  
(202) 366-2201

and

[enter FHWA Division Office lead point of contact]  
[enter address]  
[enter email address]  
[enter telephone]

**ARTICLE 9  
RECIPIENT ROLE**

**9.1 Statements on the Project.** The Recipient states that:

- (1) all material statements of fact in the Grant Application were accurate when that application was submitted; and
- (2) Attachment B documents all material changes in the information contained in that application.

**9.2 Statements on Authority and Capacity.** The Recipient states that:

- (1) it has the authority to receive Federal financial assistance under this agreement;
- (2) It has the legal authority to complete the Project, including either ownership and/or maintenance responsibilities over a roadway network; safety responsibilities that affect roadways; or has an agreement from the agency that has ownership and/or maintenance responsibilities for the roadway within the applicant’s jurisdiction; if applicable.
- (3) it has the capacity, including institutional, managerial, and financial capacity, to comply with its obligations under this agreement;

- (4) not less than the difference between the “Total Eligible Project Cost” and the “SS4A Grant Amount” listed in section 3.3 are committed to fund the Project;
- (5) it has sufficient funds available, or an agreement with the agency that has ownership and/or maintenance responsibilities for the roadway within the recipient’s jurisdiction, to ensure that infrastructure completed or improved under this agreement will be operated and maintained in compliance with this agreement and applicable Federal law; and
- (6) the individual executing this agreement on behalf of the Recipient has authority to enter this agreement and make the statements in this article 9 and in section 24.7 on behalf of the Recipient.

**9.3 USDOT Reliance.** The Recipient acknowledges that:

- (1) the USDOT relied on statements of fact in the Grant Application to select the Project to receive this award;
- (2) the USDOT relied on statements of fact in both the Grant Application and this agreement to determine that the Recipient and the Project are eligible under the terms of the NOFO;
- (3) the USDOT relied on statements of fact in both the Grant Application and this agreement to establish the terms of this agreement; and
- (4) the USDOT’s selection of the Project to receive this award prevented awards under the NOFO to other eligible applicants.

**9.4 Project Delivery.**

- (a) The Recipient shall complete the Project under the terms of this agreement.
- (b) The Recipient shall ensure that the Project is financed, constructed, operated, and maintained in accordance with all applicable Federal laws, regulations, and policies.
- (c) The Recipient shall provide any certifications or assurances deemed necessary by the USDOT in ensuring the Recipient’s compliance with all applicable laws, regulations, and policies.
- (d) The Recipient shall provide access to records as provided at 2 CFR 200.337.

**9.5 Rights and Powers Affecting the Project.**

- (a) The Recipient shall not take or permit any action that deprives it of any rights or powers necessary to the Recipient’s performance under this agreement without written approval of the USDOT.

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

**9.6 Notification of Changes to Key Personnel.** The Recipient shall notify all USDOT representatives who are identified in Section 4.4 in writing within 30 calendar days of any change in key personnel who are identified in Section 4.3.

## **ARTICLE 10 AWARD AMOUNT, OBLIGATION, AND TIME PERIODS**

**10.1 Federal Award Amount** The USDOT hereby awards a SS4A Grant to the Recipient in the amount listed in Section 2.2 as the SS4A Grant Amount.

**10.2 Federal Obligations.**

This agreement obligates for the period of performance listed in section 2.3 of the grant agreement.

**10.3 Budget Period**

The budget period for this award begins on the date of this agreement and ends on the budget period end date that is listed in section 2.4, which shall be no later than 5 years from the date of grant execution. In this agreement, "budget period" is used as defined at 2 C.F.R. 200.1.

**10.4 Period of Performance.**

- (a) The period of performance for this award begins on the effective date of award listed in page 1 item 2 and ends on the period of performance end date that is listed in Section 2.3.
- (b) In this agreement, "period of performance" is used as defined at 2 C.F.R. 200.1.

## **ARTICLE 11 STATEMENT OF WORK, SCHEDULE, AND BUDGET CHANGES**

**11.1 Notification Requirement.** The Recipient shall notify all USDOT representatives who are identified in section 4.4 in writing within 30 calendar days of any change in circumstances or commitments that adversely affect the Recipient's plan to complete the Project. In that notification, the Recipient shall describe the change and what actions the Recipient has taken or plans to take to ensure completion of the Project. This notification requirement under this section 11.1 is separate from any requirements under this article 11 that the Recipient request amendment of this agreement.

**11.2 Statement of Work Changes.** If the Project’s activities differ from the statement of work that is described in section 3.1 and Attachment B, then the Recipient shall request an amendment of this agreement to update section 3.1.

**11.3 Schedule Changes.** If one or more of the following conditions are satisfied, then the Recipient shall request an amendment of this agreement to update the relevant dates:

- (1) a substantial completion date for the Project or a component of the Project is listed in section 3.2 and the Recipient’s estimate for that milestone changes to a date that is more than six months after the date listed in section 3.2; or
- (2) a schedule change would require the period of performance to continue after the period of performance end date listed in section 2.3.

For other schedule changes, the Recipient shall request an amendment of this agreement unless the USDOT has consented, in writing consistent with applicable requirements, to the change.

**11.4 Budget Changes.**

- (a) The Recipient acknowledges that if the cost of completing the Project increases:
  - (1) that increase does not affect the Recipient’s obligation under this agreement to complete the Project; and
  - (2) the USDOT will not increase the amount of this award to address any funding shortfall.
- (b) The Recipient shall request an amendment of this agreement to update section 3.3 and Attachment B if, in comparing the Project’s budget to the amounts listed in section 3.3:
  - (1) the “Non-Federal Funds” amount decreases; or
  - (2) the “Total Eligible Project Cost” amount decreases.
- (c) For budget changes that are not identified in section 11.4(b), the Recipient shall request an amendment of this agreement to update section 3.3 and Attachment B unless the USDOT has consented, in writing consistent with applicable requirements, to the change.
- (d) If the actual eligible project costs are less than the “Total Eligible Project Cost” that is listed in section 3.3, then the Recipient may propose to the USDOT, in writing consistent with applicable requirements, specific additional activities that are within the scope of this award, as defined in sections 7.1 and 3.1, and that the Recipient could complete with the difference between the “Total Eligible Project Cost” that is listed in section 3.3 and the actual eligible project costs.
- (e) If the actual eligible project costs are less than the “Total Eligible Project Cost” that is listed in section 3.3 and either the Recipient does not make a proposal under section

11.4(d) or the USDOT does not accept the Recipient's proposal under section 11.4(d), then:

- (1) in a request under section 11.4(b), the Recipient shall reduce the Federal Share by the difference between the "Total Eligible Project Cost" that is listed in section 3.3 and the actual eligible project costs; and
- (2) if that amendment reduces this award and the USDOT had reimbursed costs exceeding the revised award, the Recipient shall request to add additional project work that is within the scope of this project.

In this agreement, "**Federal Share**" means the sum of the "SS4A Action Plan or Implementation Grant Amount" and the "Other Federal Funds" amounts that are listed in section 3.3.

- (f) The Recipient acknowledges that amounts that are required to be refunded under section 11.4(e)(2) constitute a debt to the Federal Government that the USDOT may collect under 2 C.F.R. 200.346 and the Federal Claims Collection Standards (31 C.F.R. parts 900–999).

**11.5 USDOT Acceptance of Changes.** The USDOT may accept or reject amendments requested under this article 11, and in doing so may elect to consider only the interests of the SS4A grant program and the USDOT. The Recipient acknowledges that requesting an amendment under this article 11 does not amend, modify, or supplement this agreement unless the USDOT accepts that amendment request and the parties modify this agreement under section 21.1.

## **ARTICLE 12 GENERAL REPORTING TERMS**

**12.1 Report Submission.** The Recipient shall send all reports required by this agreement to all USDOT contacts who are listed in section 4.4. Reports will be added to a central repository maintained by FHWA.

**12.2 Alternative Reporting Methods.** FHWA may establish processes for the Recipient to submit reports required by this agreement, including electronic submission processes. If the Recipient is notified of those processes in writing, the Recipient shall use the processes required by the FHWA.

**12.3 Paperwork Reduction Act Notice.**

Under 5 C.F.R. 1320.6, the Recipient is not required to respond to a collection of information that does not display a currently valid control number issued by the Office of Management and Budget (the "**OMB**"). Collections of information conducted under this agreement are approved under OMB Control No. 2125-0675.

**ARTICLE 13  
PROGRESS AND FINANCIAL REPORTING**

- 13.1 Quarterly Program Performance Reports.** Quarterly, on or before the 20th day of the first month of each calendar year (e.g., reports due on or before January 20<sup>th</sup>, April 20<sup>th</sup>, August 20<sup>th</sup>, and December 20<sup>th</sup>) and until the end of the period of performance, the Recipient shall submit to the USDOT a Quarterly Project Progress Report in the format and with the content described in Exhibit C (SF-PPR). If the date of this agreement is in the final month of a calendar year, then the Recipient shall submit the first Quarterly Project Progress Report in the second calendar year that begins after the date of this agreement.
- 13.2 Quarterly Financial Status.** Quarterly, on or before the 20<sup>th</sup> day of the first month of each calendar year, the Recipient shall submit a Federal Financial Report using SF-425.

**ARTICLE 14  
PERFORMANCE REPORTING**

- 14.1 Baseline Performance Measurement.** If the Designation in Section 2.5 is “Implementation,” then:
- (1) the Recipient shall collect data for each performance measure that is identified in the Performance Measure Table in Attachment A, accurate as of the Baseline Measurement Date that is identified in Attachment A; and
  - (2) on or before the Baseline Report Date that is stated in Attachment A, the Recipient shall submit a Baseline Performance Measurement Report that contains the data collected under this section 14.1 and a detailed description of the data sources, assumptions, variability, and estimated levels of precision for each performance measure that is identified in the Performance Measure Table in Attachment A.
- 14.2 Section 24112(h) Report:** The Recipient shall submit to the USDOT, not later than 120 days after the end of the period of performance, a report that describes, consistent with section 24112(g) of BIL:
- (1) the costs of carrying out the project;
  - (2) the outcomes and benefits that each eligible project generated as identified in the grant application and measured by data to the maximum extent practicable (i.e. number of fatalities and serious injuries that occurred within the limits of the project location); and
  - (3) the lessons learned, and any recommendations related to future projects or strategies to prevent death and serious injuries on roads and streets.



### **14.3 Performance Measurement Information.**

For each performance measure that is identified in the Performance Measure Table in Attachment A, not later than January 31 of each year that follows a calendar year within the period of performance during which data was collected, the Recipient shall submit to the USDOT a Performance Measurement Report containing the data collected in the previous calendar year and stating the dates when the data was collected.

### **14.4 Performance Reporting Survival.**

The data collection and reporting requirements in this article 14 survive the termination of this agreement which is three years post period of performance.

### **14.5 Program Evaluation.**

As a condition of grant award, the recipient may be required to participate in an evaluation undertaken by USDOT, or another agency or partner. The evaluation may take different forms such as an implementation assessment across grant recipients, an impact and/or outcomes analysis of all or selected sites within or across grant recipients, or a benefit/cost analysis or assessment of return on investment. The Department may require applicants to collect data elements to aid the evaluation. As a part of the evaluation, as a condition of award, grant recipients must agree to: (1) make records available to the evaluation contractor; (2) provide access to program records, and any other relevant documents to calculate costs and benefits; (3) in the case of an impact analysis, facilitate the access to relevant information as requested; and (4) follow evaluation procedures as specified by the evaluation contractor or USDOT staff.

## **ARTICLE 15 NONCOMPLIANCE AND REMEDIES**

### **15.1 Noncompliance Determinations.**

- (a) If the USDOT determines that the Recipient may have failed to comply with the United States Constitution, Federal law, or the terms and conditions of this agreement, the USDOT may notify the Recipient of a proposed determination of noncompliance. For the notice to be effective, it must be written and the USDOT must include an explanation of the nature of the noncompliance, describe a remedy, state whether that remedy is proposed or effective at an already determined date, and describe the process through and form in which the Recipient may respond to the notice.
- (b) If the USDOT notifies the Recipient of a proposed determination of noncompliance under section 15.1(a), the Recipient may, not later than 7 calendar days after the notice, respond to that notice in the form and through the process described in that notice. In its response, the Recipient may:
  - (1) accept the remedy;

- (2) acknowledge the noncompliance, but propose an alternative remedy; or
- (3) dispute the noncompliance.

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

- (c) The USDOT may make a final determination of noncompliance only:
  - (1) after considering the Recipient's response under section 15.1(b); or
  - (2) if the Recipient fails to respond under section 15.1(b), after the time for that response has passed.
- (d) To make a final determination of noncompliance, the USDOT must provide a notice to the Recipient that states the bases for that determination.

## **15.2 Remedies.**

- (a) If the USDOT makes a final determination of noncompliance under section 15.1(d), the USDOT may impose a remedy, including:
  - (1) additional conditions on the award;
  - (2) any remedy permitted under 2 C.F.R. 200.339–200.340, including withholding of payments; disallowance of previously reimbursed costs, requiring refunds from the Recipient to USDOT; suspension or termination of the award; or suspension and disbarment under 2 C.F.R. part 180; or
  - (3) any other remedy legally available.
- (b) To impose a remedy, the USDOT must provide a written notice to the Recipient that describes the remedy, but the USDOT may make the remedy effective before the Recipient receives that notice.
- (c) If the USDOT determines that it is in the public interest, the USDOT may impose a remedy, including all remedies described in section 15.2(a), before making a final determination of noncompliance under section 15.1(d). If it does so, then the notice provided under section 15.1(d) must also state whether the remedy imposed will continue, be rescinded, or modified.
- (d) In imposing a remedy under this section 15.2 or making a public interest determination under section 15.2(c), the USDOT may elect to consider the interests of only the USDOT.
- (e) The Recipient acknowledges that amounts that the USDOT requires the Recipient to refund to the USDOT due to a remedy under this section 15.2 constitute a debt to the

Federal Government that the USDOT may collect under 2 C.F.R. 200.346 and the Federal Claims Collection Standards (31 C.F.R. parts 900–999).

### **15.3 Other Oversight Entities.**

Nothing in this article 15 limits any party’s authority to report activity under this agreement to the United States Department of Transportation Inspector General or other appropriate oversight entities.

## **ARTICLE 16 AGREEMENT TERMINATION**

### **16.1 USDOT Termination.**

- (a) The USDOT may terminate this agreement and all of its obligations under this agreement if any of the following occurs:
  - (1) the Recipient fails to obtain or provide any non-SS4A Grant contribution (all eligible project costs other than the SS4A Grant Amount, as described in section 3.2 table (a) of the grant agreement) or alternatives approved by the USDOT as provided in this agreement and consistent with article 3;
  - (2) a construction start date for the Project or Strategy is listed in section 3.2 and the Recipient fails to meet that milestone by six months after the date listed in section 3.2;
  - (3) a substantial completion date for the Project or Strategy is listed in section 3.2 and the Recipient fails to meet that milestone by six months after the date listed in section 3.2;
  - (4) the Recipient fails to comply with the terms and conditions of this agreement, including a material failure to comply with the schedule in section 3.2 even if it is beyond the reasonable control of the Recipient; or,
  - (5) the USDOT determines that termination of this agreement is in the public interest.
  - (6) the Recipient fails to expend the funds within 5 years after the date on which the government executes the grant agreement, which is the date funds are provided for the project.
- (b) In terminating this agreement under this section, the USDOT may elect to consider only the interests of the USDOT.
- (c) This section 16.1 does not limit the USDOT’s ability to terminate this agreement as a remedy under section 15.2.

- (d) The Recipient may request that the USDOT terminate the agreement under this section 16.1.

## **16.2 Closeout Termination.**

- (a) This agreement terminates on Project Closeout.
- (b) In this agreement, “**Project Closeout**” means the date that the USDOT notifies the Recipient that the award is closed out. Under 2 C.F.R. 200.344, Project Closeout should occur no later than one year after the end of the period of performance.

**16.3 Post-Termination Adjustments.** The Recipient acknowledges that under 2 C.F.R. 200.345–200.346, termination of the agreement does not extinguish the USDOT’s authority to disallow costs, including costs that USDOT reimbursed before termination, and recover funds from the Recipient.

## **16.4 Non-Terminating Events.**

- (a) The end of the period of performance described under section 10.4 does not terminate this agreement or the Recipient’s obligations under this agreement.
- (b) The liquidation of funds under section 20.1 does not terminate this agreement or the Recipient’s obligations under this agreement.

**16.5 Other Remedies.** The termination authority under this article 16 supplements and does not limit the USDOT’s remedial authority under article 15 or 2 C.F.R. part 200, including 2 C.F.R. 200.339–200.340.

# **ARTICLE 17 MONITORING, FINANCIAL MANAGEMENT, CONTROLS, AND RECORDS**

## **17.1 Recipient Monitoring and Record Retention.**

- (a) The Recipient shall monitor activities under this award, including activities under subawards and contracts, to ensure:
  - (1) that those activities comply with this agreement; and
  - (2) that funds provided under this award are not expended on costs that are not allowable under this award or not allocable to this award.
- (b) If the Recipient makes a subaward under this award, the Recipient shall monitor the activities of the subrecipient in compliance with 2 C.F.R. 200.332(d).
- (c) The Recipient shall retain records relevant to the award as required under 2 C.F.R. 200.334.

## **17.2 Financial Records and Audits.**

- (a) The Recipient shall keep all project accounts and records that fully disclose the amount and disposition by the Recipient of the award funds, the total cost of the Project, and the amount or nature of that portion of the cost of the Project supplied by other sources, and any other financial records related to the project.
- (b) The Recipient shall keep accounts and records described under section 17.2(a) in accordance with a financial management system that meets the requirements of 2 C.F.R. 200.301–200.303, 2 C.F.R. part 200, subpart F, and title 23, United States Code, and will facilitate an effective audit in accordance with 31 U.S.C. 7501–7506.
- (c) The Recipient shall separately identify expenditures under the fiscal year 2022 SS4A grants program in financial records required for audits under 31 U.S.C. 7501–7506. Specifically, the Recipient shall:
  - (1) list expenditures under that program separately on the schedule of expenditures of Federal awards required under 2 C.F.R. part 200, subpart F, including “FY 2022” in the program name; and
  - (2) list expenditures under that program on a separate row under Part II, Item 1 (“Federal Awards Expended During Fiscal Period”) of Form SF-SAC, including “FY 2022” in column c (“Additional Award Identification”).

**17.3 Internal Controls.** The Recipient shall establish and maintain internal controls as required under 2 C.F.R. 200.303.

**17.4 USDOT Record Access.** The USDOT may access Recipient records related to this award under 2 C.F.R. 200.337.

## **ARTICLE 18 CONTRACTING AND SUBAWARDS**

**18.1 Build America, Buy America.** This award term implements § 70914(a) of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtitle A, 135 Stat. 429, 1294 (2021) and Office of Management and Budget (OMB) Memorandum M-22-11, “Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure.”

*Requirement to Use Iron, Steel, Manufactured Products, and Construction Materials Produced in the United States.*

The Recipient shall not use funds provided under this award for a project for infrastructure unless:

- (1) all iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- (2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product; and
- (3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

*Inapplicability.*

The domestic content procurement preference in this award term only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

*Waivers.*

When necessary, the Recipient may apply for, and the USDOT may grant, a waiver from the domestic content procurement preference in this award term.

A request to waive the application of the domestic content procurement preference must be in writing. The USDOT will provide instructions on the waiver process and on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Office of Management and Budget (OMB) Made in America Office.

When the USDOT has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the USDOT determines that:

- (1) applying the domestic content procurement preference would be inconsistent with the public interest;
- (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or

- (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at <https://www.transportation.gov/office-policy/transportation-policy/made-in-america>.

### *Definitions*

“Construction materials” includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Primarily iron or steel” means that the cost of the iron and steel content in the article, material, or supply exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components. The origin of the elements of the iron or steel is not relevant to the determination of whether it is domestic or foreign.

“**Project**” means the construction, alteration, maintenance, or repair of infrastructure in the United States.

- (a) Construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtitle A, 135 Stat. 429, 1294 (2021), as implemented by OMB, USDOT, and FHWA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).
- (b) Under 2 C.F.R. 200.322, as appropriate and to the extent consistent with law, the Recipient should, to the greatest extent practicable under this award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The Recipient shall include the requirements of 2 C.F.R. 200.322 in all subawards including all contracts and purchase orders for work or products under this award.

- 18.2 Small and Disadvantaged Business Requirements.** The Recipient shall expend all funds under this award in compliance with the requirements at 2 C.F.R. 200.321 (“Contracting with small and minority businesses, women’s business enterprises, and labor surplus area firms”).
- 18.3 Engineering and Design Services.** The Recipient shall award each contract or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project in the same manner that a contract for architectural and engineering services is negotiated under 2 CFR 200.320 or an equivalent qualifications-based requirement prescribed for or by the Recipient.
- 18.4 Foreign Market Restrictions.** The Recipient shall not allow funds provided under this award to be used to fund the use of any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.
- 18.5 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.** The Recipient acknowledges that Section 889 of Pub. L. No. 115-232, 2 C.F.R. 200.216 and 2 C.F.R. 200.471 prohibit the Recipient and all subrecipients from procuring or obtaining certain telecommunications and video surveillance services or equipment under this award.
- 18.6 Recipient Responsibilities For Subawards.** If the Recipient makes a subaward under this award, the Recipient shall comply with the requirements on pass-through entities under 2 C.F.R. parts 200 and 1201, including 2 C.F.R. 200.331–200.333.
- 18.7 Subaward and Contract Authorization.**

If the USDOT Office for Subaward and Contract Authorization identified in section 5.1 is “FHWA Office of Acquisition and Grants Management,” then the Recipient shall obtain prior written approval from the USDOT agreement officer for the subaward or contracting out of any work under this agreement for Action Plan awards. This provision does not apply to the acquisition of supplies, material, equipment or general support services. That approval will be contingent upon a fair and reasonable price determination on the part of the Recipient and the agreement officer’s concurrence on that determination.

## **ARTICLE 19 COSTS, PAYMENTS, AND UNEXPENDED FUNDS**

- 19.1 Limitation of Federal Award Amount.** Under this award, the USDOT shall not provide funding greater than the amount obligated on the SS4A Grant cover page, Item 11, Federal Funds Obligated. The Recipient acknowledges that USDOT is not liable for



payments exceeding that amount, and the Recipient shall not request reimbursement of costs exceeding that amount.

**19.2 Projects Costs.** This award is subject to the cost principles at 2 C.F.R. part 200 subpart E, including provisions on determining allocable costs and determining allowable costs.

**19.3 Timing of Project Costs.**

- (a) The Recipient shall not charge to this award costs that are incurred after the period of performance.
- (b) The Recipient shall not charge to this award costs that were incurred before the effective date of award of this agreement, unless there has been an approval pre-award costs under 2 C.F.R. 200.458. pre-award costs under 2 C.F.R. 200.458.

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

**19.5 Unexpended Federal Funds.** Any Federal funds that are awarded at section 10.1 but not expended on allocable, allowable costs remain the property of the United States.

**19.6 Timing of Payments to the Recipient.** When reimbursement is used, the Recipient shall not request reimbursement of a cost before the Recipient has entered an obligation for that cost.

**19.7 Payment Method.** The USDOT may deny a payment request that is not submitted using the method identified in section 5.2.

**19.8 Information Supporting Expenditures**

- (a) If the USDOT Payment System identified in section 5.2 is “DELPHI eInvoicing,” then when requesting reimbursement of costs incurred or credit for cost share incurred, the Recipient shall electronically submit the SF 270 (Request for Advance or Reimbursement), shall identify the Federal share and the Recipient’s share of costs, and shall submit supporting cost detail to clearly document all costs incurred. As supporting cost detail, the Recipient shall include a detailed breakout of all costs incurred, including direct labor, indirect costs, other direct costs, and travel.
- (b) If the Recipient submits a request for reimbursement that the USDOT determines does not include or is not supported by sufficient detail, the USDOT may deny the request or withhold processing the request until the Recipient provides sufficient detail.

**19.9 Reimbursement Frequency.** If the USDOT Payment System identified in section 5.2 is “DELPHI eInvoicing,” then the Recipient shall not request reimbursement more frequently than monthly.

## **ARTICLE 20 LIQUIDATION, ADJUSTMENTS, AND FUNDS AVAILABILITY**

### **20.1 Liquidation of Recipient Obligations.**

- (a) The Recipient shall liquidate all obligations of award funds under this agreement not later than the earlier of (1) 120 days after the end of the period of performance or (2) the statutory availability to eligible entities date, which shall be 5 years after the date on which the grant is provided.
- (b) Liquidation of obligations and adjustment of costs under this agreement follow the requirements of 2 C.F.R. 200.344–200.346.

## **ARTICLE 21 AGREEMENT MODIFICATIONS**

**21.1 Bilateral Modifications.** The parties may amend, modify, or supplement this agreement by mutual agreement in writing signed by the USDOT and the Recipient. Either party may request to amend, modify, or supplement this agreement by written notice to the other party.

### **21.2 Unilateral Contact Modifications.**

- (a) The USDOT may update the contacts who are listed in sections 4.4 by written notice to all of the Recipient contacts who are listed in section 4.3.

### **21.3 USDOT Unilateral Modifications.**

- (a) The USDOT may unilaterally modify this agreement to comply with Federal law, including the Program Statute.
- (b) To unilaterally modify this agreement under this section 21.3(a), the USDOT must provide a notice to the Recipient that includes a description of the modification and state the date that the modification is effective.

**21.4 Other Modifications.** The parties shall not amend, modify, or supplement this agreement except as permitted under sections 21.1, 21.2, or 21.3. If an amendment, modification, or supplement is not permitted under section 21.1, not permitted under section 21.2, and not permitted under section 21.3, it is void.

**ARTICLE 22**  
**CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE**

- 22.1 Climate Change and Environmental Justice.** Consistent with Executive Order 14008, “Tackling the Climate Crisis at Home and Abroad” (Jan. 27, 2021), Attachment C documents the consideration of climate change and environmental justice impacts of the Project.

**ARTICLE 23**  
**RACIAL EQUITY AND BARRIERS TO OPPORTUNITY**

- 23.1 Racial Equity and Barriers to Opportunity.** Consistent with Executive Order 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government” (Jan. 20, 2021), Attachment D documents activities related to the Project to improve racial equity and reduce barriers to opportunity.

**ARTICLE 24**  
**FEDERAL FINANCIAL ASSISTANCE, ADMINISTRATIVE, AND NATIONAL  
POLICY REQUIREMENTS**

- 24.1 Uniform Administrative Requirements for Federal Awards.** The Recipient shall comply with the obligations on non-Federal entities under 2 C.F.R. parts 200 and 1201.
- 24.2 Federal Law and Public Policy Requirements.**
- (a) The Recipient shall ensure that Federal funding is expended in full accordance with the United States Constitution, Federal law, and statutory and public policy requirements: including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.
  - (b) The failure of this agreement to expressly identify Federal law applicable to the Recipient or activities under this agreement does not make that law inapplicable.
- 24.3 Federal Freedom of Information Act.**
- (a) The USDOT is subject to the Freedom of Information Act, 5 U.S.C. 552.
  - (b) The Recipient acknowledges that the Technical Application and materials submitted to the USDOT by the Recipient related to this agreement may become USDOT records subject to public release under 5 U.S.C. 552.
- 24.4 History of Performance.** Under 2 C.F.R 200.206, any Federal awarding agency may consider the Recipient’s performance under this agreement when evaluating the risks of making a future Federal financial assistance award to the Recipient.

#### **24.5 Whistleblower Protection.**

- (a) The Recipient acknowledges that it is a “grantee” within the scope of 41 U.S.C. 4712, which prohibits the Recipient from taking certain actions against an employee for certain disclosures of information that the employee reasonably believes are evidence of gross mismanagement of this award, gross waste of Federal funds, or a violation of Federal law related to this award.
- (b) The Recipient shall inform its employees in writing of the rights and remedies provided under 41 U.S.C. 4712, in the predominant native language of the workforce.

#### **24.6 External Award Terms and Obligations.**

- (a) In addition to this document and the contents described in article 29, this agreement includes the following additional terms as integral parts:
  - (1) Appendix A to 2 C.F.R. part 25: System for Award Management and Universal Identifier Requirements;
  - (2) Appendix A to 2 C.F.R. part 170: Reporting Subawards and Executive Compensation;
  - (3) 2 C.F.R. 175.15(b): Trafficking in Persons; and
  - (4) Appendix XII to 2 C.F.R. part 200: Award Term and Condition for Recipient Integrity and Performance Matters.
- (b) The Recipient shall comply with:
  - (1) 49 C.F.R. part 20: New Restrictions on Lobbying;
  - (2) 49 C.F.R. part 21: Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964;
  - (3) 49 C.F.R. part 27: Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance; and
  - (4) Subpart B of 49 C.F.R. part 32: Governmentwide Requirements for Drug-free Workplace (Financial Assistance).

#### **24.7 Incorporated Certifications.** The Recipient makes the statements in the following certifications, which are incorporated by reference:

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

## **ARTICLE 25 ASSIGNMENT**

**25.1 Assignment Prohibited.** The Recipient shall not transfer to any other entity any discretion granted under this agreement, any right to satisfy a condition under this agreement, any remedy under this agreement, or any obligation imposed under this agreement.

## **ARTICLE 26 WAIVER**

### **26.1 Waivers.**

- (a) A waiver granted by USDOT under this agreement will not be effective unless it is in writing and signed by an authorized representative of USDOT.
- (b) A waiver granted by USDOT under this agreement on one occasion will not operate as a waiver on other occasions.
- (c) If USDOT fails to require strict performance of a provision of this agreement, fails to exercise a remedy for a breach of this agreement, or fails to reject a payment during a breach of this agreement, that failure does not constitute a waiver of that provision or breach.

## **ARTICLE 27 ADDITIONAL TERMS AND CONDITIONS**

**27.1 Effect of Action Plan or Implementation Plan.** Based on information that the Recipient provided to the USDOT, including the Technical Application, at indicated in section 2.5, this agreement designates this award as an Action Plan award or a Implementation award, as defined in the NOFO. The Recipient shall comply with the requirements that accompany that designation on minimum award size, geographic location, and cost sharing.

**27.2 Disclaimer of Federal Liability.** The USDOT shall not be responsible or liable for any damage to property or any injury to persons that may arise from, or be incident to, performance or compliance with this agreement.

### **27.3 Environmental Review**

(a) In this section, “**Environmental Review Entity**” means:

- (1) if the Project is located in a State that has assumed responsibilities for environmental review activities under 23 U.S.C. 326 or 23 U.S.C. 327 and the Project is within the scope of the assumed responsibilities, the State; and

- (2) for all other cases, the FHWA.
- (b) Except as authorized under section 27.3(c), the Recipient shall not begin final design; acquire real property, construction materials, or equipment; begin construction; or take other actions that represent an irretrievable commitment of resources for the Project unless and until:
  - (1) the Environmental Review Entity complies with the National Environmental Policy Act, 42 U.S.C. 4321 to 4370m-12, and any other applicable environmental laws and regulations; and
  - (2) if the Environmental Review Entity is not the Recipient, the Environmental Review Entity provides the Recipient with written notice that the environmental review process is complete.
- (c) If the Recipient is using procedures for early acquisition of real property under 23 C.F.R. 710.501 or hardship and protective acquisitions of real property 23 C.F.R. 710.503, the Recipient shall comply with 23 C.F.R. 771.113(d)(1).
- (d) The Recipient acknowledges that:
  - (1) the Environmental Review Entity's actions under section 27.3(a) depend on the Recipient conducting necessary environmental analyses and submitting necessary documents to the Environmental Review Entity; and
  - (2) applicable environmental statutes and regulation may require the Recipient to prepare and submit documents to other Federal, State, and local agencies.
- (e) Consistent with 23 C.F.R. 771.105(a), to the extent practicable and consistent with Federal law, the Recipient shall coordinate all environmental investigations, reviews, and consultations as a single process.
- (f) The activities described in this agreement may inform environmental decision-making processes, but the parties do not intend this agreement to document the alternatives under consideration under those processes. If a build alternative is selected that does not align information in this agreement, then:
  - (1) the parties may amend this agreement under section 21.1 for consistency with the selected build alternative; or
  - (2) if the USDOT determines that the condition at section 16.1(a)(5) is satisfied, the USDOT may terminate this agreement under section 16.1(a)(5).
- (g) The Recipient shall complete any mitigation activities described in the environmental document or documents for the Project, including the terms and conditions contained in the required permits and authorizations for the Project.

**27.4 Railroad Coordination.** If the agreement includes one or more milestones identified as a “Railroad Coordination Agreement,” then for each of those milestones, the Recipient shall enter a standard written railroad coordination agreement, consistent with 23 C.F.R. 646.216(d), no later than the deadline date identified for that milestone, with the identified railroad for work and operation within that railroad’s right-of-way.

**27.5 Relocation and Real Property Acquisition.**

- (a) The Recipient shall comply with the land acquisition policies in 49 C.F.R. part 24 subpart B and shall pay or reimburse property owners for necessary expenses as specified in that subpart.
- (b) The Recipient shall provide a relocation assistance program offering the services described in 49 C.F.R. part 24 subpart C and shall provide reasonable relocation payments and assistance to displaced persons as required in 49 C.F.R. part 24 subparts D–E.
- (c) The Recipient shall make available to displaced persons, within a reasonable period of time prior to displacement, comparable replacement dwellings in accordance with 49 C.F.R. part 24 subpart E.

**27.6 Equipment Disposition.**

- (a) In accordance with 2 C.F.R. 200.313 and 1201.313, if the Recipient or a subrecipient acquires equipment under this award, then when that equipment is no longer needed for the Project that entity shall request disposition instructions from the FHWA.
- (b) In accordance with 2 C.F.R. 200.443(d), the distribution of the proceeds from the disposition of equipment must be made in accordance with 2 C.F.R. 200.313–200.316 and 2 C.F.R. 1201.313.
- (c) The Recipient shall ensure compliance with this section 27.6 for all tiers of subawards under this award.

**ARTICLE 28  
MANDATORY AWARD INFORMATION**

**28.1 Information Contained in a Federal Award.** For 2 C.F.R. 200.211:

- (1) the “Federal Award Date” is the date of this agreement, as defined under section 30.2;
- (2) the “Assistance Listings Number” is 20.939 and the “Assistance Listings Title” is “Safe Streets and Roads for All Grant Program”; and
- (3) this award is not for research and development.

**ARTICLE 29**  
**CONSTRUCTION AND DEFINITIONS**

**29.1 Attachments.** This agreement includes the following attachments as integral parts:

Attachment A	Performance Measurement Information
Attachment B	Changes from Application
Attachment C	Racial Equity and Barriers to Opportunity
Attachment D	Climate Change and Environmental Justice Impacts
Attachment E	Labor and Workforce
Attachment F	Critical Infrastructure Security and Resilience

**29.2 Exhibits.** The following exhibits, which are in the document titled “Exhibits to FHWA Grant Agreements Under the Fiscal Year 2022 SS4A Grant Program”, dated February 8, 2023, and available at [URL to be inserted when posted online], are part of this agreement.

Exhibit A	Applicable Federal Laws and Regulations
Exhibit B	Additional Standard Terms
Exhibit C	Quarterly Project Progress Reports and Recertifications: Format and Content
Exhibit D	Form for Subsequent Obligation of Funds

**29.3 Construction.** If a provision in the exhibits or the attachments conflicts with a provision in articles 1–30, then the provision in articles 1–30 prevails. If a provision in the attachments conflicts with a provision in the exhibits, then the provision in the attachments prevails.

**29.4 Integration.** This agreement constitutes the entire agreement of the parties relating to the SS4A grant program and awards under that program and supersedes any previous agreements, oral or written, relating to the SS4A grant program and awards under that program.

**29.5 Definitions.** In this agreement, the following definitions apply:

“**Program Statute**” means the BIL section 24112 and statutory text under the heading “Safe Streets and Roads for All Grants” in title I of division J of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (November 15, 2021), and all other provisions of that act that apply to amounts appropriated under that heading.

“**Project**” means the project proposed in the Grant Application, as modified by the negotiated provisions of this agreement, including article 3 and Attachments A–D.

“**SS4A Grant**” means an award of funds that were made available under the NOFO.



“**Grant Application**” means the application identified in section 2.1, including Standard Form 424 and all information and attachments submitted with that form through Grants.gov.

**ARTICLE 30**  
**AGREEMENT EXECUTION AND EFFECTIVE DATE**

- 30.1 Counterparts.** This agreement may be executed in counterparts, which constitute one document. The parties intend each countersigned original to have identical legal effect.
- 30.2 Effective Date.** The agreement will become effective when all parties have signed it. The date of this agreement will be the date this agreement is signed by the last party to sign it. This instrument constitutes a SS4A Grant when the USDOT’s authorized representative signs it.

**EXHIBIT D –USDOT EXHIBITS TO FHWA GRANT AGREEMENTS**

**U.S. DEPARTMENT OF TRANSPORTATION**  
**EXHIBITS TO FHWA GRANT AGREEMENTS UNDER THE FISCAL**  
**YEAR 2022 SAFE STREETS AND ROADS FOR ALL PROGRAM**

Revision date: February 8, 2023

**EXHIBIT A**  
**APPLICABLE FEDERAL LAWS AND REGULATIONS**

By entering into this agreement for a FY 2022 Safe Streets and Roads for All Grant, the Recipient assures and certifies, with respect to this Grant, that it will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Project. Performance under this agreement shall be governed by and in compliance with the following requirements, as applicable, to the type of organization of the Recipient and any applicable sub-recipients. The applicable provisions to this agreement include, but are not limited to, the following:

**General Federal Legislation**

- a. Federal Fair Labor Standards Act – 29 U.S.C. 201, et seq.
- b. Hatch Act – 5 U.S.C. 1501, et seq.
- c. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 – 42 U.S.C. 4601, et seq.
- d. National Historic Preservation Act of 1966 - Section 106 – 54 U.S.C. 306108
- e. Archeological and Historic Preservation Act of 1974 – 54 U.S.C. 312501, et seq.
- f. Native American Graves Protection and Repatriation Act – 25 U.S.C. 3001, et seq.
- g. Clean Air Act, P.L. 90-148, as amended – 42 U.S.C. 7401, et seq.
- h. Section 404 of the Clean Water Act, as amended – 33 U.S.C. 1344
- i. Section 7 of the Endangered Species Act, P.L. 93-205, as amended – 16 U.S.C. 1536
- j. Coastal Zone Management Act, P.L. 92-583, as amended – 16 U.S.C. 1451, et seq.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) – 42 U.S.C. 4012a
- l. Age Discrimination Act of 1975 – 42 U.S.C. 6101, et seq.
- m. American Indian Religious Freedom Act, P.L. 95-341, as amended
- n. Drug Abuse Office and Treatment Act of 1972, as amended – 21 U.S.C. 1101, et seq.
- o. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended – 42 U.S.C. 4541, et seq.
- p. Sections 523 and 527 of the Public Health Service Act of 1912, as amended – 42 U.S.C. 290dd through 290dd-2
- q. Architectural Barriers Act of 1968 – 42 U.S.C. 4151, et seq.
- r. Power Plant and Industrial Fuel Use Act of 1978, P.L. 100-42 - Section 403 – 42 U.S.C. 8373
- s. Contract Work Hours and Safety Standards Act – 40 U.S.C. 3701, et seq.
- t. Copeland Anti-kickback Act, as amended – 18 U.S.C. 874 and 40 U.S.C. 3145
- u. National Environmental Policy Act of 1969 – 42 U.S.C. 4321, et seq.
- v. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. 1271, et seq.
- w. Federal Water Pollution Control Act, as amended – 33 U.S.C. 1251-1376
- x. Single Audit Act of 1984 – 31 U.S.C. 7501, et seq.
- y. Americans with Disabilities Act of 1990 – 42 U.S.C. 12101, et seq.
- z. Title IX of the Education Amendments of 1972, as amended – 20 U.S.C. 1681 through 1683 and 1685 through 1687
- aa. Section 504 of the Rehabilitation Act of 1973, as amended – 29 U.S.C. 794
- bb. Title VI of the Civil Rights Act of 1964 – 42 U.S.C. 2000d, et seq.
- cc. Title IX of the Federal Property and Administrative Services Act of 1949 – 40 U.S.C.

- 1101 -1104, 541, et seq.
- dd. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. 1352
- ee. Freedom of Information Act – 5 U.S.C. 552, as amended
- ff. Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. 1855
- gg. Farmland Protection Policy Act of 1981 – 7 U.S.C. 4201, et seq.
- hh. Noise Control Act of 1972 – 42 U.S.C. 4901, et seq.
- ii. Fish and Wildlife Coordination Act of 1956 – 16 U.S.C. 661, et seq.
- jj. Section 9 of the Rivers and Harbors Act and the General Bridge Act of 1946 – 33 U.S.C. 401 and 525
- kk. Section 4(f) of the Department of Transportation Act of 1966 – 49 U.S.C. 303
- ll. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended – 42 U.S.C. 9601, et seq.
- mm. Safe Drinking Water Act – 42 U.S.C. 300f to 300j-26
- nn. Wilderness Act – 16 U.S.C. 1131-1136
- oo. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 – 42 U.S.C. 6901, et seq.
- pp. Migratory Bird Treaty Act – 16 U.S.C. 703, et seq.
- qq. The Federal Funding Transparency and Accountability Act of 2006, as amended (Pub. L. 109–282, as amended by section 6202 of Public Law 110–252)
- rr. Cargo Preference Act of 1954 – 46 U.S.C. 55305
- ss. Section 889 of the John D. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232

### **Executive Orders**

- a. Executive Order 11246 – Equal Employment Opportunity
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11988 – Floodplain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12549 – Debarment and Suspension
- f. Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- g. Executive Order 13166 – Improving Access to Services for Persons With Limited English Proficiency
- h. Executive Order 13985 – Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- i. Executive Order 14005 – Ensuring the Future is Made in All of America by All of America’s Workers
- j. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

### **General Federal Regulations**

- a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – 2 C.F.R. Parts 200, 1201
- b. Non-procurement Suspension and Debarment – 2 C.F.R. Parts 180, 1200
- c. Investigative and Enforcement Procedures – 14 C.F.R. Part 13
- d. Procedures for predetermination of wage rates – 29 C.F.R. Part 1

- e. Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States – 29 C.F.R. Part 3
- f. Labor standards provisions applicable to contracts governing federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act) – 29 C.F.R. Part 5
- g. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements) – 41 C.F.R. Parts 60, et seq.
- h. New Restrictions on Lobbying – 49 C.F.R. Part 20
- i. Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 – 49 C.F.R. Part 21
- j. Uniform relocation assistance and real property acquisition for Federal and Federally assisted programs – 49 C.F.R. Part 24
- k. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance – 49 C.F.R. Part 25
- l. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance – 49 C.F.R. Part 27
- m. DOT’s implementation of DOJ’s ADA Title II regulations compliance procedures for all programs, services, and regulatory activities relating to transportation under 28 C.F.R. Part 35
- n. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 C.F.R. Part 28
- o. Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors – 49 C.F.R. Part 30
- p. Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) – 49 C.F.R. Part 32
- q. DOT’s implementing ADA regulations for transit services and transit vehicles, including the DOT’s standards for accessible transportation facilities in Part 37, Appendix A – 49 C.F.R. Parts 37 and 38
- r. Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs – 49 C.F.R. Part 26 (as applicable under section 18.3 of this agreement)

**Office of Management and Budget Circulars**

- a. Any applicable OMB Circular based upon the specific FY 2022 Safe Streets and Roads for All Grant Recipient.

**Highway Federal Legislation**

- a. Agreements relating to the use of an access to rights-of-way—Interstate System, 23 U.S.C. 111
- b. Planning, 23 U.S.C. 134 and 135 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)
- c. Tolls, 23 U.S.C. 301 (to the extent the recipient wishes to toll an existing free facility that has received Title 23 funds in the past); except as authorized by 23 U.S.C. 129 and 166.
- d. Efficient Environmental Reviews - 23 U.S.C. 139

- e. Policy on lands, wildlife and waterfowl refuges, and historic sites - 49 U.S.C. 303

**Federal Highway Regulations**

- a. Planning – 23 C.F.R. Part 450 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)
- b. National Highway System Design Standards – 23 C.F.R. Part 625
- c. Location and Hydraulic Design of Encroachments on Flood Plains – 23 C.F.R. Part 650 Subpart A
- d. Manual on Uniform Traffic Control Devices – 23 C.F.R. Part 655
- e. Length, Width and Weight Limitations – 23 C.F.R. Part 658
- f. Environmental Impact and Related Procedures – 23 C.F.R. Part 771
- g. Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites (Section 4(f)) – 23 C.F.R. Part 774
- h. Permitting Requirements under the National Pollutant Discharge Elimination System – 40 C.F.R. Part 122

Specific assurances required to be included in the FY 2022 Safe Streets and Roads for All Grant agreement by any of the above laws, regulations, or circulars are hereby incorporated by reference into this agreement.

**EXHIBIT B**  
**ADDITIONAL STANDARD TERMS**

**TERM B.1**  
**TITLE VI ASSURANCE**  
**(Implementing Title VI of the Civil Rights Act of 1964, as amended)**

**ASSURANCE CONCERNING NONDISCRIMINATION IN FEDERALLY-ASSISTED  
PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL  
FINANCIAL ASSISTANCE**

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

49 C.F.R. Parts 21, 25, 27, 37 and 38

**The United States Department of Transportation (USDOT)**

**Standard Title VI/Non-Discrimination Assurances**

**DOT Order No. 1050.2A**

By signing and submitting the Technical Application and by entering into this agreement under the FY 2022 Safe Streets and Roads for All (SS4A) grant program, the Recipient **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Highway Administration (FHWA), it is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

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

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

**General Assurances**

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



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

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

### **Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FY 2022 SS4A grant program:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with the FY 2022 SS4A Grant and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

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

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.

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

By signing this ASSURANCE, the Recipient also agrees to comply (and require any sub-recipients, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA. You must keep records, reports, and submit the material for review upon request to FHWA, or its designee in a timely,

complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FY 2022 SS4A grant program. This ASSURANCE is binding on the Recipient, other recipients, sub-recipients, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FY 2022 SS4A grant program.

## APPENDIX A

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

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

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

## APPENDIX B

### CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

**NOW, THEREFORE**, the U.S. Department of Transportation as authorized by law and upon the condition that the Recipient will accept title to the lands and maintain the project constructed thereon in accordance with the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021), the Consolidated Appropriations Act, 2022, Pub. L. No. 117-103 (Mar. 15, 2022), 49 U.S.C. § 6702, the Regulations for the Administration of FY 2022 SS4A grant program, and the policies and procedures prescribed by the Federal Highway Administration (FHWA) of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

#### (HABENDUM CLAUSE)

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

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

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

## APPENDIX C

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

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

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

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



## APPENDIX D

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

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

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

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

## APPENDIX E

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

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

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 C.F.R. Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 *et seq.*).

**TERM B.2**  
**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER**  
**RESPONSIBILITY MATTERS -- PRIMARY COVERED TRANSACTIONS**

**2 C.F.R. Parts 180 and 1200**

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

By signing and submitting the Technical Application and by entering into this agreement under the FY 2022 SS4A grant program, the Recipient is providing the assurances and certifications for First Tier Participants and Lower Tier Participants in the FY 2022 SS4A Grant, as set out below.

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

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

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms “covered transaction,” “civil judgment,” “debarred,” “suspended,” “ineligible,” “participant,” “person,” “principal,” and “voluntarily excluded,” as used in this clause, are defined in 2 C.F.R. Parts 180 and 1200. “First Tier Covered Transactions” refers to any covered transaction between a Recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a Recipient or subrecipient of

Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers to any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

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

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

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

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

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

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

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

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment, including a civil settlement, rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

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

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

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

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

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 C.F.R. Parts 180 and 1200)

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

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

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

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

transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

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

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

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

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

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

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

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

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

As required by sections 744 and 745 of Title VII, Division E of the Consolidated Appropriations Act, 2023, Pub. L. No. 117-328 (Dec. 29, 2022), and implemented through USDOT Order 4200.6, the funds provided under this award shall not be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that:

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

The Recipient therefore agrees:

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

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

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

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

“**Tax Delinquency**” means an unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

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

3. **Mandatory Certifications.** Before entering a Covered Transaction with another entity, a Participant shall require that entity to:

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

4 **Prohibition. If**

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

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

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

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

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

- (1) require the SAM check in section 2;
- (2) require the certifications in section 3;
- (3) include the prohibition in section 4; and



(4) require all Participants to notify the Recipient in writing of any information that would require the Recipient to notify the USDOT under section 5.

**TERM B.4**  
**RECIPIENT POLICY TO BAN TEXT MESSAGING WHILE DRIVING**

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

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

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

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

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

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

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

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

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

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

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

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

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

**EXHIBIT C**  
**QUARTERLY PROJECT PROGRESS REPORTS AND RECERTIFICATIONS:**  
**FORMAT AND CONTENT**

**1. Purpose.** The purpose of the Quarterly Project Progress Reports and Recertifications under this agreement for the FY 2022 SS4A grant program are to ensure that the project scope, schedule, and budget will be maintained to the maximum extent possible.

**2. Format and Content.** The Recipient shall produce a quarterly cost, schedule, and status report that contains the sections enumerated in the following list. At the discretion of the USDOT, modifications or additions can be made to produce a quarterly reporting format that will most effectively serve both the Recipient and the USDOT. Some projects will have a more extensive quarterly status than others. For smaller projects, the USDOT may determine that the content of the quarterly reports will be streamlined and project status meetings will be held on a less-frequent basis. The first quarterly progress report should include a detailed description and, where appropriate, drawings of the items funded.

**(a) Project Overall Status.** This section provides an overall status of the project's scope, schedule and budget. The Recipient shall note and explain any deviations from the scope of work, the schedule, or the budget that are described in this agreement.

**(b) Project Significant Activities and Issues.** This section provides highlights of key activities, accomplishments, and issues occurring on the project during the previous quarter. Activities and deliverables to be reported on should include meetings, audits and other reviews, design packages submitted, advertisements, awards, construction submittals, construction completion milestones, submittals related to any applicable Recovery Act requirements, media or Congressional inquiries, value engineering/constructability reviews, and other items of significance.

**(c) Action Items/Outstanding Issues.** This section should draw attention to, and track the progress of, highly significant or sensitive issues requiring action and direction in order to resolve. The Recipient should include administrative items and outstanding issues that could have a significant or adverse effect on the project's scope, schedule, or budget. Status, responsible person(s), and due dates should be included for each action item/outstanding issue. Action items requiring action or direction should be included in the quarterly status meeting agenda. The action items/outstanding issues may be dropped from this section upon full implementation of the remedial action, and upon no further monitoring anticipated.

**(d) Project Scope Overview.** The purpose of this section is to provide a further update regarding the project scope. If the original scope contained in the grant agreement is still accurate, this section can simply state that the scope is unchanged.

**(e) Project Schedule.** An updated master program schedule reflecting the current status of the program activities should be included in this section. A Gantt (bar) type chart is probably the most appropriate for quarterly reporting purposes, with the ultimate

format to be agreed upon between the Recipient and the USDOT. It is imperative that the master program schedule be integrated, i.e., the individual contract milestones tied to each other, such that any delays occurring in one activity will be reflected throughout the entire program schedule, with a realistic completion date being reported. Narratives, tables, and/or graphs should accompany the updated master program schedule, basically detailing the current schedule status, delays and potential exposures, and recovery efforts. The following information should also be included:

- Current overall project completion percentage vs. latest plan percentage.
- Completion percentages vs. latest plan percentages for major activities such as right-of-way, major or critical design contracts, major or critical construction contracts, and significant force accounts or task orders. A schedule status description should also be included for each of these major or critical elements.
- Any delays or potential exposures to milestone and final completion dates. The delays and exposures should be quantified, and overall schedule impacts assessed. The reasons for the delays and exposures should be explained, and initiatives being analyzed or implemented in order to recover the schedule should be detailed.

**(f) Project Cost.** An updated cost spreadsheet reflecting the current forecasted cost vs. the latest approved budget vs. the baseline budget should be included in this section. One way to track project cost is to show: (1) Baseline Budget, (2) Latest Approved Budget, (3) Current Forecasted Cost Estimate, (4) Expenditures or Commitments to Date, and (5) Variance between Current Forecasted Cost and Latest Approved Budget. Line items should include all significant cost centers, such as prior costs, right-of-way, preliminary engineering, environmental mitigation, general engineering consultant, section design contracts, construction administration, utilities, construction packages, force accounts/task orders, wrap-up insurance, construction contingencies, management contingencies, and other contingencies. The line items can be broken-up in enough detail such that specific areas of cost change can be sufficiently tracked and future improvements made to the overall cost estimating methodology. A Program Total line should be included at the bottom of the spreadsheet. Narratives, tables, and/or graphs should accompany the updated cost spreadsheet, basically detailing the current cost status, reasons for cost deviations, impacts of cost overruns, and efforts to mitigate cost overruns. The following information should be provided:

- Reasons for each line item deviation from the approved budget, impacts resulting from the deviations, and initiatives being analyzed or implemented in order to recover any cost overruns.
- Transfer of costs to and from contingency line items, and reasons supporting the transfers.

- Speculative cost changes that potentially may develop in the future, a quantified dollar range for each potential cost change, and the current status of the speculative change. Also, a comparison analysis to the available contingency amounts should be included, showing that reasonable and sufficient amounts of contingency remain to keep the project within the latest approved budget.
- Detailed cost breakdown of the general engineering consultant (GEC) services (if applicable), including such line items as contract amounts, task orders issued (amounts), balance remaining for tasks, and accrued (billable) costs.
- Federal obligations and/or disbursements for the project, compared to planned obligations and disbursements.

**(g) Federal Financial Report (SF-425).** The Federal Financial Report (SF-425) is a financial reporting form used throughout the Federal Government Grant system. Recipients shall complete this form and attach it to each quarterly Project Progress and Monitoring Report. The form is available at <https://www.grants.gov/forms/post-award-reporting-forms.html>.

**(h) Certifications.**

- i. A certification that the Recipient is in compliance with 2 C.F.R. 200.303 (Internal Controls) and 2 C.F.R. Part 200, Subpart F (Audit Requirements).
- ii. The certification required under 2 C.F.R. 200.415(a).

**EXHIBIT D  
FORM FOR SUBSEQUENT OBLIGATION OF FUNDS**

The USDOT and **[recipient name]** entered a grant agreement for the **[project name]** that was executed by the USDOT on **[date of USDOT signature on original agreement]** (the “Agreement”).

This instrument obligates **[\$XXX]** for **[insert portion of project listed in the Agreement]**.

**[Recipient name]** states that:

- (1) the Agreement accurately describe the Project’s activities;
- (2) for each completion date listed in the Agreement, the Recipient’s estimate for that milestone is not more than six months after the date listed in the Agreement;
- (3) comparing the Project’s current budget with the amounts listed in the Agreement, the “Non-Federal Funds” amount has not decreased and the total eligible project costs amount has not decreased; and
- (4) under the terms of article 21 of the General Terms and Conditions, the Recipient is not presently required to request a modification to the Agreement.

**[Recipient name]** acknowledges that USDOT is acting in reliance on the Recipient’s statements above.

<hr/>	By:	<hr/>
Date		Signature of Recipient’s Authorized Representative
		<b>[insert name]</b>
		<hr/>
		Name
		<b>[insert title]</b>
		<hr/>
		Title

The USDOT has determined that all applicable Federal requirements for obligating these funds are satisfied.

\_\_\_\_\_By: \_\_\_\_\_  
Date Signature of USDOT's Authorized Representative  
  
[insert name]  
\_\_\_\_\_  
Name  
  
[insert title]  
\_\_\_\_\_  
Title