**SUBRECIPIENT FUNDING AGREEMENT**

**SECTION 5310 FY 2018**

**ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAM**

This Sub-Recipient Funding Agreement (“Agreement”) is hereby made and entered into by and between VIA Metropolitan Transit (hereinafter referred to as "VIA"), and AGENCY, its authorized representative (hereinafter referred to as the "Sub-Recipient").

WHEREAS, the source of Formula Based Funds for current fiscal year are in the Moving Ahead for Progress in the 21st Century (MAP-21) legislation which among other things, makes available formula grant funds under 49 CFR 5310, as merged with 49 CFR 5317, for Elderly and Disabled Programs (Formula Grant Funds); and

WHEREAS, VIA acts as designated recipient for the Federal Transit Administration (FTA), with regard to such grant funds; and

Whereas, the Sub-Recipient has submitted a project proposal for financial assistance to be used to provide transportation services and is eligible to receive funding under 49 U.S.C. Section 5310 (“project”); and

Whereas, the project is included in an approved locally developed, coordinated public transit-human services transportation plan; and

Whereas, the Sub-Recipient has executed and adheres to the federal fiscal year certifications and assurances for the FTA assistance programs as required at the start of each fiscal year grant period for consideration for state and/or federal grants; and

WHEREAS, VIA has agreed to provide the Sub-Recipient Formula Grant Funds as a Sub-Recipient;

NOW THEREFORE, the PARTIES hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

**I. TERM**

1.1 The initial term of this Agreement shall begin on September 1, 2017 and shall continue in effect until September 30, 2018. Thereafter, subject to the availability of funds, unless sooner terminated as herein provided, the Agreement shall renew for up to two (2), one (1) year terms provided all prerequisites and certifications necessary are met for each fiscal year and the FTA continues to provide funding. For purposes of this Agreement, a “fiscal year” begins October 1st and continues through September 30th.

1.2 On or before June 1st of the then current term, the Parties shall initiate contact to discuss and seek mutual agreement on funding for continuing the public transportation services hereinafter described for the succeeding term. Once the availability of funds is established and the amount determined by mutual agreement, both parties will include the funding in their budgetary process for approval by their respective governing body. To qualify, Sub-Recipient must fulfill and adhere to any and all requirements for receipt of funding, including but not limited to all VIA and Federal requirements.

1.3 The Parties agree and understand that any given term under this Agreement cannot be extended past the grant time period of the grant from which the funding is originating and that any costs incurred by Sub-Recipient after the term are ineligible for reimbursement.

1.4 Notwithstanding anything to the contrary, the Parties may mutually agree to terminate this agreement at any time, as described in Article XIV.

**II. PROJECT DESCRIPTION**

2.1 Sub-Recipient has submitted and shall be responsible for implementing and completing the public transportation services as described in **Exhibit A** attached hereto and incorporated herein for all purposes**.** Sub-Recipient hereby represents to VIA that the proposalfor financial assistance to fund and provide transportation services has been approved and is otherwise eligible to receive funding under 49 U.S.C. Section 5310.

2.2 Sub-Recipient represents that it has secured and has executed, and agrees to adhere to, the Federal fiscal year certifications and assurances for the FTA assistance programs as required at the start of each fiscal year grant period for consideration for State and/or Federal grants

**III. FUNDING**

3.1 This is a cost reimbursement agreement. Funding is contingent upon VIA’s receipt of funds under 49 U.S.C. Section 5310. If and when funding is received, VIA agrees to reimburse Sub-Recipient for the allowable costs Sub-Recipient incurs for the transportation services it provides under this agreement up to a maximum amount set out in the Project Budget as described on **Exhibit “B”** attached hereto and incorporated herein for all purposes. Sub-Recipient agrees and understands that it is solely responsible for and must ensure that the balance of funding for the transportation services is to be secured and properly accounted for. Currently under 49 U.S.C. Section 5310, VIA may only reimburse Sub-Recipient up to eighty percent (80%) for capital costs and up to fifty percent (50%) for operating costs, as evidenced on **Exhibit “B”**.

3.2 To be eligible for reimbursement under this Agreement, a cost must be authorized and incurred within the applicable term of this Agreement including the Project Budget.

3.3 Sub-Recipient may submit requests for reimbursement to VIA no more frequently than monthly, but at least once a quarter, on or before the thirtieth (30th) calendar day after the end of the quarter. Sub-Recipient must use invoice statements acceptable to VIA. Any additional documentation to support any cost incurred during the billing period may be required at the discretion of VIA. At a minimum each billing must be accompanied by a summary by budget line item which indicates the total amount authorized for each line item, previous expenditures, current period expenditures and the balance remaining in the line item.

1. The original and one copy of the invoice, including any supporting documentation such as check copies, bank statements, payroll records, copies of vendor invoices, etc., as applicable, is to be submitted by electronic mail, hand delivery, delivery service or mailed through the U.S. Postal Service to the following address:

VIA Metropolitan Transit

Finance Department

Attention to: Grant Coordinator

800 West Myrtle,

San Antonio, Texas 78212

1. VIA will make payment within thirty (30) days of receipt of an undisputed invoice provided the funds have been made available by FTA through an executed TEAM application.
2. Sub-Recipient will submit a final billing within sixty (60) days of the completion or termination of the term in which it was incurred.
3. Because this Agreement provides for reimbursement of costs that have already been incurred, Sub-Recipient shall be responsible for paying all suppliers and vendors, if any, prior to submitting a request for reimbursement.
4. VIA shall not be responsible for the debts of Sub-Recipient.

3.4 In addition to any reimbursement request, on or before the fifteenth (15th) of each month, Sub-Recipient shall submit, in a form acceptable to VIA, any and all data VIA deems necessary to comply with the 49 U.S.C. Section 5310 grant requirements including but not limited to its National Transit Database (“NTD”) obligations. Sub-Recipient agrees to and shall fully cooperate with VIA in securing the required information for any and all required reporting periods that may include but not necessarily be limited to monthly and annual reporting.

**IV. AMENDMENTS**

4.1 All amendments to this Agreement must be executed by both Sub-Recipient and VIA. A Party desiring an amendment must notify the other Party in writing before any changes to the Agreement are made by describing the revision and explaining the need.

**V. SUBCONTRACTS**

5.1 Sub-Recipient is not anticipating entering into any subcontracts. Should Sub-Recipient decide a subcontract is necessary, it is agreed that any subcontract with individuals or organizations to provide services under this Agreement shall require VIA’s prior authorization and consent to the subcontract in the form of an amendment executed as provided in Section 4.1.

5.2 Sub-Recipient understand that It is the policy of the United States Department of Transportation (USDOT) that Disadvantaged Business Enterprises (DBE), as defined in 49 C.F.R. 26, shall have the opportunity to participate in the performance of contracts financed in whole or in part with federal funds. Consequently, the DBE requirements of 49 C.F.R. 26 and VIA’s DBE program apply to this contract as follows:

1. If Sub-Recipient makes use of any subcontractor, it will strive to meet the annual DBE goal by offering DBEs, as defined in 49 C.F.R. 26, Subpart A, the opportunity to compete fairly for contracts and subcontracts. If subcontractors are used, DBE participation shall be reported monthly.
2. Sub-Recipient and any subcontractor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts.
3. These requirements shall be included in any subcontract.
4. Failure to carry out the requirements set forth above shall constitute a material breach of this Agreement.

**VI. AUDIT REQUIREMENTS**

6.1 Sub-Recipient will meet or exceed all applicable audit requirements outlined in Title 48, Code of Federal Regulations (C.F.R.), and Federal Acquisition Regulations (FAR). Unless permitted otherwise by Federal statute or regulation, Sub-Recipient will comply with the U.S. Office of Management and Budget (OMB) Circular A-133 “Audits of States, Local Governments, and Non-Profit Organizations,” for non-Federal entities that expend $500,000 or more of Federal assistance in a fiscal year. Sub-Recipient will perform, if applicable, and provide as promptly as possible, any financial and compliance audits as required by the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq*.; OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” Revised; and the most recent applicable OMB A-133 Compliance Supplement provisions for the U.S. DOT. Sub-Recipient will provide VIA a copy of the audit reports and bring to VIA’s attention any audit findings relevant to Sub-Recipient’s use of 49 U.S. C. 5310 funds, along with a statement that clearly describes the expected action of Sub-Recipient to repay any disallowed costs, make financial adjustment, or take other action. VIA may impose conditions on further funding based on such audit findings. In the event Sub-Recipient fails to provide any and all required audits, or if Sub-Recipient is unable or unwilling to have a required audit(s) as provided in this agreement, VIA might:

1. Withhold a percentage of the grant funds until the audit(s) is completed;
2. Withhold any disallowed costs;
3. Suspend or condition further grant funding until the audit(s) is completed; or,
4. Terminate this Agreement.

6.2 During this agreement and the retention period set out in Section 6.3, VIA will monitor and may conduct fiscal and/or program audits of Sub-Recipient and its contractors to verify the extent of services provided under the terms of the Agreement. Representatives of VIA or Federal government will have access to Project facilities and records at all reasonable times Sub-Recipient agrees to and shall provide access to any and all records and materials relevant to this Agreement for these purposes, including making available or providing access to those within the possession of the Cities and any subcontractors. Sub-Recipient agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as the parties deem necessary.

6.3 Sub-Recipient agrees to maintain all documentation and materials relevant to this Agreement for a period as required by the appropriate retention statutes but in no case less than four (4) years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Contractor agrees to maintain same until VIA has disposed of all such litigation, appeals, claims or exceptions related thereto.

**VII. PROCUREMENT, PROPERTY AND EQUIPMENT STANDARDS**

7.1 Although not anticipated, if a procurement is needed under this Agreement, Sub-Recipient shall meet or exceed all applicable procurement requirements that may include but not be limited to, 49 C.F.R. Part 18.36 inclusive of the standards for competitive procurements; methods of procurement; contracting with small and minority firms, women's business enterprise and labor surplus area firms; contract cost and price; awarding agency review; insurance and bonding. Sub-Recipient’s procurement system must include, but not be limited to, the following procurement standards:

1. Procurement procedures must promote full and open competition while conforming to the applicable federal, state and local laws and regulations.
2. A contract administration system that ensures that the contractor performs in accordance with the terms, conditions, and specifications of their contracts.
3. A written code of standards of conduct governing the performance of employees engaged in the award and administration of contracts under this Agreement. No employee, officer, or agency of Sub-Recipient shall participate in selection or in the award or administration of a contract supported by state or federal funds if there is a conflict of interest, real or apparent.
4. A process for review of proposed procurements to avoid purchase of unnecessary or duplicative services or items.
5. Use of state and local intergovernmental agreements for procurement or use of common goods and services to foster greater economy and efficiency.
6. A mechanism to make awards to only responsible contractors possessing the ability to perform successfully under the terms and conditions of the contract. The mechanism should provide assurances regarding the contractor’s integrity, compliance with public policy, record of past performance, and financial and technical resources.
7. Records sufficient to detail the significant history of procurement, including rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
8. Mechanisms that use good administrative practices and sound business judgment to settle contractual and administrative issues arising out of procurements made in accordance with this Agreement.
9. Protest procedures to handle and resolve disputes relating to procurements. The protest procedure should provide a way to promptly disclose information regarding a protest to VIA.
10. The equipment and program provisions survive the contract duration.

7.2 Sub-Recipient agrees and understands that VIA must agree to the award of all purchase orders for non-expendable personal property as defined in 49 C.F.R. §18.32 and §18.33. The Acquisition of real property must comply with 49 C.F.R. §18.31. Equipment management standards must be met for any assets purchased using federal funds. Although not anticipated, to the extent Sub-Recipient uses any federal funding to purchase transit assets, Sub-Recipient agrees to and must adhere to the management standards under 49 U.S.C. 5326 and the related regulatory requirements.

7.3 Sub-Recipient’s Equipment Management standards shall include, but not be limited to the following:

1. Equipment records that include: a description of the equipment; a serial number or other identification number; the source of equipment; who holds title; the acquisition date and cost of the equipment; percentage of Federal participation in the cost of the equipment; the location, use and condition of the equipment; maintenance history for each vehicle; and ultimate disposition data including the date of disposal and sale price.
2. Conducting a physical inventory of the equipment at least once every two (2) years and reconciling the inventory with equipment records described in the preceding paragraph.
3. Developing a control system to ensure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft shall be investigated.
4. Developing and following procedures to keep the equipment maintained and in good condition. At a minimum, Sub-Recipient shall follow the vehicle maintenance schedule recommended by the manufacturer, showing the date the maintenance was performed. Maintenance records shall be provided to VIA upon request.
5. Requesting disposition instructions from VIA, and if authorized to sell the equipment, using proper sales procedures to ensure the highest possible return.

7.4 Sub-Recipient shall comply with all applicable law including but not limited to FTA Circular 5010.1D, Grant Management Requirements and Title 43, Texas Administrative Code §31.53 and §31.55, to protect the public investment in real property and equipment purchased in whole or in part with state or federal funds.

7.5 In the event that project equipment is not used in the proper manner or is withdrawn from public transportation services, Sub-Recipient shall immediately notify VIA. VIA reserves the right to direct the sale or transfer of property acquired under this Agreement upon determination by VIA that said property has not been fully or properly used upon termination of this Agreement, or as otherwise allowed by applicable rules and regulations.

7.6 All vehicles purchased under this Agreement shall comply with the Motor Vehicle Safety Standards established by the US Department of Transportation and state law.

7.7 Irrespective of coverage by insurance, unless otherwise approved in writing by VIA, in the event of loss or damage to project property, whether by casualty or fire, the fair market value will be the value of the property immediately before the casualty or fire.

7.8 Sub-Recipient shall notify VIA immediately of theft, wreck, vandalism or other destruction of project-related facilities or equipment.

**VIII. STANDARDS FOR FINANCIAL ADMINISTRATION AND PROGRAM INCOME**

8.1 For purposes of this agreement, Sub-Recipient agrees that its standards for financial administration will conform to the requirements of 49 C.F.R. Part 18, §18.20.

8.2 Except for income from royalties and proceeds from the sale of real property or equipment, Sub-Recipient shall retain program income, if any, and apply such income to allowable capital or operating expenses. If federally funded, Program Income from royalties and proceeds from sale of real property or equipment shall be handled as specified in Federal Provisions.

8.3 Sub-Recipient shall comply with standards governing the receipt and application of program income as set forth in 49 C.F.R. §18.25, Program Income. Program income means gross income received by Sub-Recipient directly generated by a grant supported activity, or earned only as a result of this Agreement

8.4 Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under an Agreement similar to this Agreement, and from payments of principal and interest on loans made with grant funds. Except as otherwise provided in federal regulations, program income does not include interest on grant funds, rebates, credits discounts, refunds, etc., and interest earned on any of them.

**IX. COORDINATION**

9.1 According to Title 43 of the Texas Administrative Code, §31.49, Sub-Recipient will at all times coordinate the provision of public transportation services with other transportation operators in the area, both public and private. Sub-Recipient will furnish VIA copies of any agreement resulting from such coordination. Agreements that authorize the payment of project funds to another entity are subject to the approval requirements described in Article V, Subcontracts.

**X. LABOR PROTECTION PROVISIONS**

10.1 Sub-Recipient agrees to follow and abide by any and all applicable labor provisions required by federal law or regulation. If applicable, Sub-Recipient will comply with any of the labor protection provisions as listed below for the protection of employees in the mass passenger transportation industry in the area where the transportation services are provided under this agreement:

1. The transportation services shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees in the mass passenger transportation industry within the area where the transportation services are being provided.
2. All rights, privileges, and benefits (including pension rights and benefits) of employees (including employees already retired) shall be preserved and continued.
3. Sub-Recipient shall be financially responsible for any deprivation of employment or other worsening of employment position as a result of the Project.
4. In the event an employee is terminated or laid off as a result of this Project, he or she shall be granted priority of employment or reemployment to fill any vacant position for which he or she is, or by training or retraining can become, qualified. In the event training is required by such employment or reemployment, Sub-Recipient shall provide or provide for such training or retraining at no cost to the employee.
5. Any employee who is laid off or otherwise deprived of employment or placed in a worse position with respect to compensation, hours, working conditions, fringe benefits, or rights and privileges pertaining thereto at any time during his or her employment as a result of the Project, including any program of efficiencies or economies directly or indirectly related thereto, shall be entitled to receive any applicable rights, privileges and benefits as specified in the employee protective arrangement certified by the Secretary of Labor under Section 405(b) of the Rail Passenger Service Act of 1970 on April 16, 1971. An employee shall not be regarded as deprived of employment or placed in a worse position with respect to compensation, etc., in case of his or her resignation, death, retirement, dismissal for cause, or failure to work due to disability or discipline. The phrase "as a result of the Project" as used herein shall include events occurring in anticipation of, during, and subsequent to the Project.
6. In the event any provision of these conditions is held to be invalid or otherwise unenforceable, Sub-Recipient and the employees or their representatives may invoke the jurisdiction of the Secretary of Labor to determine substitute fair and equitable employee protective arrangements which shall be incorporated in these conditions.
7. Sub-Recipient agrees that any controversy respecting the Project's effects upon employees, the interpretation or application of these conditions and the disposition of any claim arising hereunder may be submitted by any party to the dispute including the employees or their representative for determination by the Secretary of Labor, whose decision shall be final.
8. Sub-Recipient shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the making of the decisions called for in the preceding paragraph.
9. Sub-Recipient will post, in a prominent and accessible place, a notice stating that Sub-Recipient is a recipient of federal assistance under the Federal Transit Act and has agreed to comply with the provisions of 49 U.S.C., Section 5333(b). The notice shall also specify the terms and conditions set forth herein for the protection of employees.

10.2 The Parties acknowledge that to the best of their knowledge and interpretation of this Agreement, the Project currently does not implicate the Federal Department of Labor (DOL} requirements of the Davis-Bacon Act. However, the Parties agree that to the extent the Agreement is found to so implicate or that any future amendment to the Agreement implicates such DOL requirements, the contractual requirements mandated under the DOL regulations at 29 C.F.R. Section 5.5 are hereby incorporated into and made a part of this Agreement.

**XI. MONITORING AND AUDITS**

11.1 In addition to any other provision herein contained, VIA will monitor the progress of the Project authorized in this Agreement using appropriate and necessary inspections, including but not limited to periodic reports, physical inspection of Project facilities, telephone conversations, letters, and conferences.

11. 2 In addition to any other provision herein contained, VIA shall monitor and conduct financial and/or program audits of Sub-Recipient to verify compliance with the terms of this Agreement. Representatives of VIA or the Federal government shall have access to project facilities and audit the books and records relating to the Project at all reasonable times.

**XII. REPORTS**

12. 1 In addition to and in coordination with the NTD reporting under Section 3.4 of this agreement, Sub-Recipient agrees to and shall submit the following written or electronic report in a format prescribed by VIA:

Quarterly Report. No later than fifteen (15) calendar days after the end of the quarter, for which the report is made, Sub-Recipient shall submit an activity report to VIA. At a minimum, the quarterly report will include the number of vehicles in operation; total unlinked passenger trips; total miles traveled; total expenses, including administrative and operating expenses; revenue, including fares and donations; operating expense per vehicle revenue mile; operating expense per unlinked passenger trip; and number of unlinked passenger trips per revenue mile traveled. VIA might, in its discretion, require more frequent operating reports.

12. 2Sub-Recipient shall promptly notify VIA, in writing, any time the transportation services being funded under this agreement will substantially be negatively impacted, including problems, delays or adverse conditions that will materially affect Sub-Recipient's ability to provide the transportation services contracted for under this agreement. This disclosure shall be accompanied by a statement of the action taken, or contemplated by Sub-Recipient.

**XIII. DISPUTES AND REMEDIES**

13. 1 Any dispute concerning the transportation services hereunder or any other issue shall be submitted for resolution by informal mediation, in accordance with the requirements of the Governmental Dispute Resolution Act, Chapter 2009, and Government Code.

13. 2 This agreement shall not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be availed by either party and shall be cumulative.

**XIV. TERMINATION**

14. 1 Either Party may terminate this agreement by giving thirty (30) days written notice for reasons of its own and not subject to the approval of the other party. In the event of termination for convenience, neither Party shall be subject to additional liability except as may otherwise be provided for in this agreement.

14. 2 If both parties agree that the continuation would not produce beneficial results commensurate with the further expenditure of funds, the parties shall agree upon the termination conditions, including the effective date. In the event that both parties agree that resumption of this agreement is warranted, a new agreement must be developed and executed by both parties.

14. 3 VIA may terminate this Agreement at any time before the date of completion whenever it determines Sub-Recipient has failed to comply with the conditions of this agreement. Additionally, if VIA notifies Sub-Recipient of a major deficiency and Sub-Recipient does not respond in the manner required by VIA, VIA may immediately terminate this agreement.

14. 4 Upon termination of this agreement, whether for cause or at the convenience of the parties hereto, title to all property and equipment remains with Sub-Recipient.

14. 5 In the event of termination, VIA will compensate Sub-Recipient for those eligible expenses incurred during the term that are directly attributable to completed transportation services provided they were completed in accordance with the terms of this agreement. Sub-Recipient shall not incur new obligations after the effective date of termination.

14. 6 Sub-Recipient shall not be in default by reason of any failure in performance of this agreement if such failure arises out of causes beyond the control and without the fault or negligence of Sub-Recipient. Such causes may include but are not limited to acts of God or of the public enemy, acts of the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

**XV. OPEN MEETINGS AND PUBLIC INFORMATION**

15. 1 Sub-Recipient will comply with Texas Government Code, Chapters 551 and 552, regarding open meetings and public access to information.

**XVI. INDEMNIFICATION**

16. 1To the extent permitted by law, Sub-Recipient shall indemnify and save harmless VIA from all claims and liability due to activities of Sub-Recipient’s agents, employees or volunteers performed under this Agreement and which result from an error, omission, intentional, reckless, or negligent act of Sub-Recipient or of any person employed by Sub-Recipient.

16. 2To the extent permitted by law, Sub-Recipient shall also save harmless VIA from any and all expenses, including attorney fees, which might be incurred by VIA in litigation or otherwise resisting said claim or liabilities which might be imposed on VIA as a result of activities by Sub-Recipient, its agents, employees or volunteers.

16. 3 Sub-Recipient acknowledges that it is not an agent, servant or employee of VIA and that it is responsible for its own acts and deeds and for those of its agents, employees or volunteers during the performance of the Agreement.

**XVII. COMPLIANCE WITH LAWS**

17. 1 Sub-Recipient shall comply with all applicable federal, state and local laws, statutes, ordinances, rules, regulations and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this agreement, When required, Sub-Recipient shall furnish VIA with satisfactory proof of compliance therewith. This includes any and all VIA policies that are effective or become effective during the term.

**XVIII. NONCOLLUSION**

18. 1 Sub-Recipient warrants and represents that it has not employed or retained any company or person, other than a bona fide employee working for it, to solicit or secure this agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration contingent upon or resulting from the award or making of this agreement. If Sub-Recipient breaches or violates this warranty, VIA shall have the right to annul this agreement without liability or, in its discretion, to deduct from the amount in Section 3.1 of this Agreement, or otherwise recover, the full amount of such fee, commission, brokerage fee, gift, or contingent fee.

**XIX. CIVIL RIGHTS**

19. 1 Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended (42 U.S.C. §2000d), section 303 of the Age Discrimination Act of 1975, as amended (42 U.S.C. §6102), section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. §12132), and federal transit law at 49 U.S.C. §5332, Sub-Recipient agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, Sub-Recipient agrees to comply with applicable federal implementing regulations and other implementing requirements FTA may issue.

19. 2 Equal Employment Opportunity. The following equal employment opportunity requirements apply to this agreement:

1. Race, Color. Creed, National Origin. Sex. In accordance with Title VII of the Civil Rights Act, as amended (42 U.S.C. §2000e), and federal transit law at 49 U.S.C. §5332, Sub-Recipient agrees to comply with all applicable equal employment opportunity requirements of the U.S. Department of Labor regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. §2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the Project. Sub-Recipient agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Sub-Recipient agrees to comply with any implementing requirements FTA may issue.
2. Age Discrimination. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §623 and federal transit law at 49 U.S.C. §5332, Sub-Recipient agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, Sub-Recipient agrees to comply with any implementing requirements FTA may issue.
3. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended (42 U.S.C. §12112), Sub-Recipient agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. 1630, pertaining to employment of persons with disabilities. In addition, Sub-Recipient agrees to comply with any implementing requirements FTA may issue.

**XX. NONDISCRIMINATION ON THE BASIS OF DISABILITY**

20. 1 Sub-Recipient agrees that no otherwise qualified person with a disability shall, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under this agreement. Sub-Recipient shall ensure compliance with applicable regulations set forth at 49 C.F.R. 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance, and the Americans with Disabilities Act.

**XXI. SPECIAL PROVISIONS**

21. 1 Sub-Recipient certifies that it is not suspended or debarred from receiving federal funds and there are no pending proceedings for suspension or debarment. Further, Sub-Recipient represents that it is not named on any list of suspended or debarred entities as shown on any list maintained by the U.S. government (Debarment List) and has not been on any such list for the last three years. Sub-Recipient may not subcontract with any entity that is suspended or debarred from receiving federal fund as listed on any Debarment List or has been on any such list in the last three years. Sub-Recipient must verify that such entity (and its principals as defined in 2 CFR 180.995) is not suspended or debarred from receiving federal funds (nor are there pending proceedings to do so) and that such entity or its principals are not named on any Disbarment List, that such entity (or its principals) has not been on any such list for the last three years, and Sub-Recipient shall maintain documentation of verification of compliance. The verification may be accomplished by (1) checking the System for Award Management (SAM) maintained by the U.S. General Services Administration (GSA) and available at https://www.sam.gov/portal/public/SAM/, or (2) collecting a certification from the entity.

21. 2 Sub-Recipient shall obtain a Data Universal Numbering System (DUNS) number as set forth in 2 CFR 25 and provide such number to VIA.

21. 3 Sub-Recipient shall at all times comply with applicable FTA and other federal regulations, policies and directive as they may be amended or promulgated from time to time during the term of this agreement. Failure to do so may result in the termination of this agreement.

21.4 All FTA and other federally mandated terms shall be deemed to control in the event of a conflict with any provisions contained in this agreement. Not with standing any other provision in this Agreement, Sub-Recipient shall not perform any act, fail to conform, or refuse to comply with any requests necessary for VIA to comply with federal laws and regulations, as may be amended from time to time.

21.5 Sub-Recipient shall specifically comply with the federal contracting requirements as set forth in the Federal Transit Administration Master Agreement (Master Agreement) which is part of this Agreement and which may be accessed at the time of drafting this Agreement, at the following link: http://www.fta.dot.gov/documents/19-Master.pdf

21. 6 a. This Agreement incorporates by reference the following:

1. The Approved Project Description (**Exhibit “A**”);
2. The Approved Project Budget (**Exhibit “B”);**
3. Federal Fiscal Year Certifications and Assurances for Federal Transit Administration Assistance Programs; and
4. FTA Master Agreement

.

1. This Agreement together with **Exhibit “A”** and **Exhibit “B”** along with the Federal Fiscal Year Certifications and Assurances for Federal Transit Administration Assistance Programs and the FTA Master Agreement represents the entire agreement between the Parties concerning the subject matter herein and supersedes any and all prior or contemporaneous oral or written statements, agreements, correspondence, quotations and negotiations.
2. The Parties agree and understand that a statutory or regulatory reference made in this Agreement means and refers to the then current statutory or regulatory provision as it is or has been amended from time-to-time. Furthermore, the cited references are included only to the extent they are applicable to this use of the grant funds and/or this Agreement.

**XXII. SUCCESSORS AND ASSIGNS**

22.1 Sub-Recipient binds itself, its successors, assigns, executors and administrators in respect to all covenants of this Agreement. Sub-Recipient shall not sign, sublet or transfer their interest in this Agreement without the written consent of VIA.

**XXIII. LEGAL CONSTRUCTION**

23.1 If one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof and this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. All Exhibits referenced herein are incorporated herein for all purposes. This agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement. Facsimile signatures shall be deemed an original signature for all purposes. For purposes of this paragraph, the phrase “facsimile signature” includes without limitation, an image of an original signature made by an electronic scanner.

**XXIV. RECITALS**

24.1 The Recitals on Page 1 of this agreement are incorporated herein for all purposes.

**XXV.** **SIGNATORY WARRANTY**

25.1 The undersigned signatory for Sub-Recipient hereby warrants and represents that they have full and complete authority to enter into this agreement on behalf of the organization and bind the organization to the terms and conditions herein stated.

**IN TESTIMONY WHEREOF**, the Parties have caused these presents to be executed in duplicate counterparts this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2017.

**VIA METROPOLITAN TRANSIT**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Jeffrey Arndt

President/CEO

ATTACHMENTS:

Exhibit “A” Project Description and Scope of Work

Exhibit “B” Project Budget

EXHIBIT “A”

**PROJECT DESCRIPTION AND**

SCOPE OF WORK

**PROJECT DESCRIPTION AND**

**SCOPE OF WORK**

Sub-Recipient shall, for the term of the contract, furnish a demand-response, curb-to-curb, public transportation service in response to requests made by Seniors and Individuals with Disabilities in \_\_\_\_\_\_\_\_\_\_\_ to Sub-Recipient. The service will be open to the public and run \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ through \_\_\_\_\_\_\_\_ from 0:00 a.m. to 0:00 p.m. for 52 weeks per year, excluding the designated holidays of Christmas Day, Independence Day, Labor Day, Memorial Day, New Year’s Day, and Thanksgiving Day. Sub-Recipient will provide for the following:

1. Vehicles having wheelchair accessibility;
2. Necessary, trained personnel to operate the demand-response service;
3. Operating & administrative activities and expenses associated with operation of the demand-response transportation service;
4. Ensuring all vehicles used in service are well maintained to afford comfortable, safe, and reliable transportation.

EXHIBIT “B”

**PROJECT BUDGET**

**PROJECT BUDGET**

****

****