

# REQUEST FOR PROPOSAL

**RFP # 24-58**

**Near-Miss Video Analytics System**  
City of Ann Arbor  
Public Services Unit/Engineering Department



**Due Date: January 7, 2025, by 3:00 p.m. (Local Time)**

Issued By:

City of Ann Arbor  
Procurement Unit  
301 E. Huron Street  
Ann Arbor, MI 48104

## TABLE OF CONTENTS

SECTION I: GENERAL INFORMATION.....	3
SECTION II: SCOPE OF SERVICES.....	10
SECTION III: MINIMUM INFORMATION REQUIRED.....	19
SECTION IV: ATTACHMENTS.....	23
APPENDIX A: SAMPLE PROFESSIONAL SERVICES AGREEMENT.....	36

## **SECTION I - GENERAL INFORMATION**

### **A. OBJECTIVE**

The City of Ann Arbor is seeking proposals from vendors for a **Near-Miss Video Analytics System** (the “System”) that will ingest video data from existing City-owned, operated, and maintained GridSmart detection cameras at locations throughout the city. See **Attachment A** for the list of locations. The System must be capable of identifying near-miss events – situations where road user behaviors or actions could have resulted in a crash if not for timely or corrective measures – as well as those actions that did contribute to an actual crash. By detecting these events, the City aims to proactively address potential hazards and prevent future crashes. This initiative seeks to bridge an existing informational gap, providing the City with critical insights to enhance road safety and reduce the likelihood of crashes.

The proposed work includes the furnishing of all materials, tools, equipment, and labor necessary to deploy, configure, and test a data platform that provides automated, algorithm-driven analysis of video streams captured from video vehicle detection systems at the intersection level. The vendor must complete the work in a manner such that the City of Ann Arbor can operate and maintain the System independently without routine involvement from the vendor, except for providing as-needed support for troubleshooting purposes. The System must not require any new hardware to be installed at intersections. The System must meet the requirements outlined in the System Requirements Matrix found in **Attachment B**.

### **QUESTIONS AND CLARIFICATIONS / DESIGNATED CITY CONTACTS**

All questions regarding this Request for Proposal (RFP) shall be submitted via e-mail. Questions will be accepted and answered in accordance with the terms and conditions of this RFP.

**All questions shall be submitted on or before December 11, 2024, at 10:00 a.m.**, and should be addressed as follows:

Scope of Work/Proposal Content questions shall be e-mailed to Suzann Flowers, Transportation Program Manager, SFlowers@a2gov.org

RFP Process and Compliance questions shall be e-mailed to Colin Spencer, Buyer - CSpencer@a2gov.org

Should any prospective offeror be in doubt as to the true meaning of any portion of this RFP, or should the prospective offeror find any ambiguity, inconsistency, omission therein, the prospective offeror shall make a written request for an official interpretation or correction by the due date for questions above.

All interpretations, corrections, or additions to this RFP will be made only as an official addendum that will be posted to a2gov.org and MITN.info and it shall be the prospective offeror's responsibility to ensure they have received all addenda before submitting a proposal. Any addendum issued by the City shall become part of the RFP and must be incorporated in the proposal where applicable.

## **B. PROPOSAL FORMAT**

To be considered, each firm must submit a response to this RFP using the format provided in Section III. No other distribution of proposals is to be made by the prospective offeror. An official authorized to bind the offeror to its provisions must sign the proposal. Each proposal must remain valid for at least ninety days from the due date of this RFP.

Proposals should be prepared simply and economically providing a straightforward, concise description of the offeror's ability to meet the requirements of the RFP. No erasures are permitted. Mistakes may be crossed out and corrected and must be initialed in ink by the person signing the proposal.

## **C. SELECTION CRITERIA**

Responses to this RFP will be evaluated using a point system as shown in Section III. A selection committee comprised of staff from the City and its designated consultant staff will complete the evaluation.

The fee proposals will not be reviewed at the initial evaluation. After initial evaluation, the City will determine top proposals, and open only those fee proposals. The City will then determine which, if any, firms will be interviewed. During the interviews, the selected firms will be given the opportunity to discuss their proposal, qualifications, past experience, and their fee proposal in more detail. The City further reserves the right to interview the key personnel assigned by the selected offeror to this project.

All proposals submitted may be subject to clarifications and further negotiation. All agreements resulting from negotiations that differ from what is represented within the RFP or in the proposal response shall be documented and included as part of the final contract.

#### **D. SEALED PROPOSAL SUBMISSION**

**All proposals are due and must be delivered to the City on or before, January 7, 2025, by 3:00 p.m. (Local Time).** Proposals submitted late or via oral, telephonic, telegraphic, electronic mail or facsimile **will not** be considered or accepted.

**Each respondent must submit in a sealed envelope**

- **One (1) original proposal**
- **Three (3) additional proposal copies**
- **One (1) digital copy of the proposal preferably on a USB/flash drive as one file in PDF format**

**Each respondent should submit in a single separate sealed envelope marked Fee Proposal**

- **Two (2) copies of the fee proposal**

**The fee proposal and all costs should be separate from the rest of the proposal.**

Proposals submitted should be clearly marked: **“RFP No. 24-58 – Near-Miss Video Analytics System”** and list the offeror’s name and address.

Proposals must be addressed and delivered to:  
City of Ann Arbor  
c/o Customer Service  
301 East Huron Street  
Ann Arbor, MI 48104

All proposals received on or before the due date will be publicly opened and recorded on the due date. No immediate decisions will be rendered.

Hand delivered bids may be dropped off in the Purchasing drop box located in the Ann Street (north) vestibule/entrance of City Hall which is open to the public Monday through Friday from 8am to 5pm (except holidays). The City will not be liable to any prospective offeror for any unforeseen circumstances, delivery, or postal delays. Postmarking on the due date will not substitute for receipt of the proposal. Offerors are responsible for submission of their proposal. Additional time will not be granted to a single prospective offeror. However, additional time may be granted to all prospective offerors at the discretion of the City.

**A proposal may be disqualified if the following required forms are not included with the proposal:**

- **Attachment C – Legal Status of Offeror**
- **Attachment D - City of Ann Arbor Non-Discrimination Declaration of Compliance**
- **Attachment E - City of Ann Arbor Living Wage Declaration of Compliance**
- **Attachment F - Vendor Conflict of Interest Disclosure Form of the RFP Document**

**Proposals that fail to provide these forms listed above upon proposal opening may be deemed non-responsive and may not be considered for award.**

**Please provide the forms outlined above (Attachments C, D, E, and F) within your narrative proposal, not within the separately sealed Fee Proposal envelope.**

**All proposed fees, cost or compensation for the services requested herein should be provided in the separately sealed Fee Proposal envelope only.**

#### **E. DISCLOSURES**

Under the Freedom of Information Act (Public Act 442), the City is obligated to permit review of its files, if requested by others. All information in a proposal is subject to disclosure under this provision. This act also provides for a complete disclosure of contracts and attachments thereto.

#### **F. TYPE OF CONTRACT**

A sample of the Professional Services Agreement is included as **Appendix A**. Those who wish to submit a proposal to the City are required to review this sample agreement carefully. **The City will not entertain changes to its Professional Services Agreement.**

The City reserves the right to award the total proposal, to reject any or all proposals in whole or in part, and to waive any informality or technical defects if, in the City's sole judgment, the best interests of the City will be so served.

This RFP and the selected offeror's response thereto, shall constitute the basis of the scope of services in the contract by reference.

## **G. NONDISCRIMINATION**

All offerors proposing to do business with the City shall satisfy the contract compliance administrative policy adopted by the City Administrator in accordance with the Section 9:158 of the Ann Arbor City Code. Breach of the obligation not to discriminate as outlined in **Attachment D** shall be a material breach of the contract. Contractors are required to post a copy of Ann Arbor's Non-Discrimination Ordinance attached at all work locations where its employees provide services under a contract with the City.

## **H. WAGE REQUIREMENTS**

The Attachments provided herein outline the requirements for payment of prevailing wages or of a "living wage" to employees providing service to the City under this contract. The successful offeror must comply with all applicable requirements and provide documentary proof of compliance when requested.

## **I. CONFLICT OF INTEREST DISCLOSURE**

The City of Ann Arbor Purchasing Policy requires that the consultant complete a Conflict-of-Interest Disclosure form. A contract may not be awarded to the selected offeror unless and until the Procurement Unit and the City Administrator have reviewed the Disclosure form and determined that no conflict exists under applicable federal, state, or local law or administrative regulation. Not every relationship or situation disclosed on the Disclosure Form may be a disqualifying conflict. Depending on applicable law and regulations, some contracts may be awarded on the recommendation of the City Administrator after full disclosure, where such action is allowed by law, if demonstrated competitive pricing exists and/or it is determined the award is in the best interest of the City. A copy of the Conflict-of-Interest Disclosure Form is attached.

## **J. COST LIABILITY**

The City of Ann Arbor assumes no responsibility or liability for costs incurred by the offeror prior to the execution of a Professional Services Agreement. The liability of the City is limited to the terms and conditions outlined in the Agreement. By submitting a proposal, offeror agrees to bear all costs incurred or related to the preparation, submission, and selection process for the proposal.

## **K. DEBARMENT**

Submission of a proposal in response to this RFP is certification that the Respondent is not currently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from participation in this transaction by any State or Federal departments or agency. Submission is also agreement that the City will be notified of any changes in this status.

## **N. PROPOSAL PROTEST**

All protests must be in writing and filed with the Purchasing Agent within 5 business days of any notices of intent, including, but not exclusively, divisions on pre-qualification of bidders, shortlisting of bidders, or a notice of intent to award a contract. Only bidders who responded to the solicitation may file a bid protest. The offeror must clearly state the reasons for the protest. If an offeror contacts a City Service Area/Unit and indicates a desire to protest an award, the Service Area/Unit shall refer the offeror to the Purchasing Manager. The Purchasing Manager will provide the offeror with the appropriate instructions for filing the protest. The protest shall be reviewed by the City Administrator or designee, whose decision shall be final.

Any inquiries or requests regarding this procurement should be only submitted in writing to the Designated City Contacts provided herein. Attempts by the offeror to initiate contact with anyone other than the Designated City Contacts provided herein that the offeror believes can influence the procurement decision, e.g., Elected Officials, City Administrator, Selection Committee Members, Appointed Committee Members, etc., may lead to immediate elimination from further consideration.

## **O. SCHEDULE**

The proposals submitted should define an appropriate schedule in accordance with the requirements of the Proposed Work Plan in Section III.

The following is the schedule for this RFP process.

<b>Activity/Event</b>	<b>Anticipated Date</b>
Written Question Deadline	December 11, 2024, at 10:00 a.m.
Addenda Published (if needed)	Week of December 20, 2024
Proposal Due Date	January 7, 2025, 3:00 p.m. (Local Time)
Selection/Negotiations	Week of January 29, 2025
Expected City Council Authorizations	March/April 2025

The above schedule is for information purposes only and is subject to change at the City's discretion.

## **P. IRS FORM W-9**

The selected offeror will be required to provide the City of Ann Arbor an IRS form W-9.



## **Q. RESERVATION OF RIGHTS**

1. The City reserves the right in its sole and absolute discretion to accept or reject any or all proposals, or alternative proposals, in whole or in part, with or without cause.
2. The City reserves the right to waive, or not waive, informalities or irregularities in of any proposal if determined by the City to be in its best interest.
3. The City reserves the right to request additional information from any or all offerors.
4. The City reserves the right to reject any proposal that it determines to be unresponsive and deficient in any of the information requested within RFP.
5. The City reserves the right to determine whether the scope of the project will be entirely as described in the RFP, a portion of the scope, or a revised scope be implemented.
6. The City reserves the right to select one or more vendors to perform services.
7. The City reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this RFP, unless clearly and specifically noted in the proposal submitted.
8. The City reserves the right to disqualify proposals that fail to respond to any requirements outlined in the RFP, or failure to enclose copies of the required documents outlined within RFP.

## **R. ENVIRONMENTAL COMMITMENT**

The City of Ann Arbor recognizes its responsibility to minimize negative impacts on human health and the environment while supporting a vibrant community and economy. The City further recognizes that the products and services the City buys have inherent environmental and economic impacts, and that the City should make procurement decisions that embody, promote and encourage the City's commitment to the environment.

The City strongly encourages potential vendors to bring forward tested, emerging, innovative, and environmentally preferable products and services that are best suited to the City's environmental principles. This includes products and services such as those with lower greenhouse gas emissions, high recycled content, without toxic substances, those with high reusability or recyclability, those that reduce the consumption of virgin materials, and those with low energy intensity.

As part of its environmental commitment, the City reserves the right to award a contract to the most responsive and responsible bidder, which includes bids that bring forward products or services that help advance the City's environmental commitment. In addition, the City reserves the right to request that all vendors report their annual greenhouse gas emissions, energy consumption, miles traveled, or other relevant criteria in order to help the City more fully understand the environmental impact of its procurement decisions.

## **SECTION II - SCOPE OF SERVICES**

### **A. BACKGROUND**

In June 2021, the Ann Arbor, Michigan City Council unanimously adopted a safety action plan reflecting a longstanding desire of the community to achieve Vision Zero and eliminate traffic violence on their streets. The plan, known as *Ann Arbor: Moving Together Towards Vision Zero* outlines a comprehensive set of strategies to guide investments in transportation and transportation-related initiatives to reach the community's ambitious and complementary goals of **zero deaths and zero emissions**. Ann Arbor is committed to eliminating fatalities and serious injuries resulting from traffic crashes by 2025 and transition to a carbon-neutral transportation system by 2030, a shared goal of USDOT with a more aggressive target date.

Approximately 55% of severe crashes happen on streets with a speed limit of over 35 mph, and speeding is a major determinant in the incidence and severity of crashes. To counter such crashes, improve detection for vulnerable users like bicyclists, and make informed decisions, the City seeks proposals from vendors to deploy a video-based near-miss trajectory analytics system that will supplement Ann Arbor's existing annual crash analysis so that dangerous conditions and behaviors that may go unreported can be identified and diagnosed before severe crashes happen.

This technology procurement was established as a goal in Ann Arbor's 2022 Safe Streets for All (SS4A) grant application *Ending Traffic Violence in Ann Arbor: Safe Streets and Roads for All (SS4A)*. Technology described in this RFP must meet the goals and expectations of the 2022 SS4A application submitted by the City. This procurement is part of the City's larger goal of implementing evidence-based infrastructure improvements, policies, and programs that will create safer, more resilient, and equitable streets.

The City operates and maintains 162 traffic signals that are equipped with Siemens m50 or m60 traffic signal controllers. The entire traffic signal network is connected to the central traffic signal control system via the City's fiber optic network or radio communications. On some corridors, the City makes use of the Split Cycle Offset Optimization Technique (SCOOT) adaptive traffic control system. The City also maintains a network of traffic cameras at numerous signalized intersections, including 35 IP-based PTZ cameras and 47 Gridsmart cameras, as well as eight Gridsmart cameras at non-intersection locations, including four rectangular rapid flashing beacons (RRFB) and one double-lane roundabout, for both traffic monitoring and vehicle detection. Cameras are installed at key intersections with higher traffic volumes and a history of experiencing congestion and/or higher crash rates. It is anticipated that some or all of this equipment will be utilized in the procured System, as indicated in the project location list in **Attachment A**.

## B. OBJECTIVE

The City of Ann Arbor is seeking proposals from vendors for a **Near-Miss Video Analytics System** to be configured at City-owned, operated, and maintained intersections which may include Michigan Department of Transportation (MDOT) locations. The proposed work includes the furnishing of all materials, tools, equipment, and labor necessary to deploy, configure, and test a data platform that provides automated, algorithm-driven analysis of video streams captured from intersection video vehicle detection systems. The vendor will install a fully functional video analytics system that meets the requirements outlined in the System Requirements Matrix found in **Attachment B**. The vendor must not install new hardware at intersections. The vendor must also meet requirements and complete the work outlined below.

In addition to system deployment, the vendor is expected to compile near-miss data and provide the City with regular reports. These reports will be used by the City and/or its designated consultant to evaluate potential traffic safety improvements and to identify patterns of concern at intersections. The reporting functionality is a key component of the platform, ensuring the City can make data-driven decisions to improve road safety and meet the goals outlined in the Vision Zero initiative.

## C. REQUIREMENTS

The City plans to contract with a qualified vendor to provide products and services necessary to furnish, install, integrate, test, train on, and document a Near-Miss Video Analytics System. The System shall be integrated with existing City infrastructure. The vendor should work in tandem with the City Information Technology (IT) staff for maintenance of the IT components of the system. The System should be capable of being operated by City personnel, or their designated consultant. The System must not install new hardware at intersections. The selected vendor will provide the City with a formal work plan detailing steps to deliver the System. Work is expected to include, but is not limited to, the following tasks:

1. Project Management
2. System Design
3. System Installation and Integration
4. Testing and Verification
5. Training
6. System Operations and Maintenance
7. System Licenses and Subscriptions
8. Documentation

The following sections provide additional details pertaining to the requirements of the requested Near-Miss Video Analytics System, but do not supersede those provided in the System Requirements Matrix in **Attachment B**.

## PROJECT MANAGEMENT

The selected offeror shall be responsible for the execution of the required project management tasks for the duration of the Contract. Offerors shall provide a description of their proposed approach to the tasks in the proposal. For the complete explanation of proposal requirements, please see Section III.

### **Contractor Key Personnel**

The offeror shall identify resources required for the successful implementation and ongoing support of the System. The offeror must provide the following items for each Contractor Key Personnel and provide resumes in the proposal.

- **Contractor Project Manager:** The selected offeror shall provide a Contractor Project Manager who will serve as the primary contact for this project. The Project Manager will have the authority to act on behalf of the Contractor in matters pertaining to all items identified in the contract. The Project Manager must be able to conduct status meetings, administer terms of the contract, organize and identify Contractor personnel, and keep the project in line with the approved contract schedule.
- **Contract System Integrator:** If different from the Project Manager, the selected offeror shall provide an individual that will be the primary contact for System integration services and interfaces with existing City of Ann Arbor systems, devices, and software.
- **Contract Technical Personnel:** The selected offeror shall provide additional individual(s) that are knowledgeable of the System components and are able to provide additional configuration and technical support for successful deployment of the System.
- **Trainer:** If different from the Project Manager, the selected offeror shall provide an individual that will lead development of System training and associated training materials, including the Training Plan Document. This person(s) must have knowledge of the System components and software deployed during the project.

### **Schedule**

The offeror shall submit a proposed project schedule, with consideration to Section I.O of this RFP. The schedule shall depict the anticipated critical path starting from the date of contract award through final acceptance testing. The schedule shall include all project milestones and tasks necessary for the completion of the project. The offeror shall assume a 15-day review period for any deliverable requiring the City's review and/or approval.

- **Project Kick-off Meeting:** The selected offeror shall attend a project kick-off meeting to be held at a location designated by the City, which may be virtual. The City, or its designated representative, will coordinate the meeting location and agenda with the selected offeror. The selected offeror shall document and provide a written summary of the discussion to all attendees

and any additional personnel identified by the City within 72 hours of the meeting's conclusion.

- **Progress Meetings:** Progress meetings will be requested or scheduled at regular intervals, as determined during the kick-off meeting. The meetings shall serve to inform the City on progress and coordinate upcoming project activities. Updates to the project schedule shall be reviewed and discussed during these meetings. The selected offeror shall document the meeting and provide a written summary to all attendees and any additional personnel identified by the City within 72 hours of the meeting's conclusion.

### **Progress Tracking**

The offeror shall submit monthly progress reports to the City detailing to work completed, anticipated challenges, and work remaining.

## **SYSTEM DESIGN**

The following outlines the required system design elements the offeror must provide as part of the project. Refer to **Attachment B** for specific System requirements.

### **Hardware (If Required for the System)**

The selected offeror must not install new hardware at intersections. If the selected System requires an on-premise server to be installed on the City network for the purposes of video processing, this server shall not store any video recording. Proposed hardware shall be reviewed by the City prior to approval. Any required System hardware must be included in the offeror's pricing proposal and must follow City of Ann Arbor Information Technology security standards, policies, and procedures.

### **System Architecture**

The selected offeror shall, within four weeks of selection, furnish a system architecture diagram of the proposed solution. All communications links in the system required to integrate with existing City facilities, network, and infrastructure shall be shown within the submitted document. Upon receipt, the City will review the submitted document and issue formal approval or provide comments for further revision, as applicable.

### **User Interface**

The selected offeror shall, within four weeks of selection, provide screenshots or images of the proposed System interface. The submittal shall include key interface features including status screens, property editing windows, intersection or device configuration, or other System functionality that is related to typical daily use. Upon receipt, the City will review the submitted document and issue formal approval or provide comments for further revision, as applicable.

## **SYSTEM INSTALLATION AND INTEGRATION**

The selected offeror shall configure the System for locations listed in **Attachment A**. Installation and integration activities shall comply with all City IT policies, procedures, and directives. Any System installation files, logs, or configuration elements specific to the System shall be provided to City IT upon request. Access to City systems for the purpose of System installation shall be governed by existing City IT security policies and procedures, including, but not limited to, methods for the use of remote access if applicable to System installation process.

## **TESTING AND VERIFICATION**

The selected offeror is responsible for all labor, materials, and equipment, necessary to test and verify the system. Additionally, City-identified personnel (i.e., a test witness) may participate in the testing, at the discretion of the City.

### **System Acceptance Testing (SAT) Plan and Procedures**

The selected offeror shall submit a formal System Acceptance Test (SAT) plan demonstrating the methodology for testing the System to verify compliance with the requirements set forth in this RFP, including those contained in **Attachment B**. Within the SAT plan, the offeror shall include sign-off forms that will be used for each test and signed by the offeror and test witness. The offeror shall also include a failure log template to document the tests that fail and the proposed resolution and timeframe for retesting. The SAT plan shall be submitted six weeks prior to testing.

The City and its partners shall review the document and provide any comments, questions, or suggested revisions. The offeror shall be required to verify and/or incorporate all such comments or revisions into the SAT plan. The City will grant formal approval of the SAT plan when all comments and revisions have been satisfied.

The City reserves the right to require additional System tests during the review process, prior to final acceptance of the SAT document. The submitted document must include a methodology for tracking the status of each test conducted, including test cases, pass/fail criteria, and the ability to provide comments or relevant information pertaining to test results.

### **Local Device Acceptance Testing (LDAT) (If Required for the System)**

The selected offeror shall develop and perform a local device acceptance testing (LDAT) procedure for any centralized server hardware, if required for the System. The LDAT should reflect testing and verification steps to confirm that the centralized server has been installed and configured correctly and is successfully connected to the City's network and systems according to the system architecture diagram.

### **Software Testing (ST)**

The selected offeror shall develop and perform a software testing (ST) procedure for any software components that will be installed as part of the System. The ST should reflect testing and verification steps to confirm that the software has been installed and configured correctly and is successfully integrated the City's network and systems according to the system architecture diagram. Signed sign-off forms and failure logs shall be delivered to the City following testing.

### **Subsystem Test (SST)**

The selected offeror shall perform formal testing over a period of up to five (5) business days, or longer to allow the System to respond to a minimum of 150 detected near-miss events across 30 different locations. The selected offeror shall be responsible for conducting tests for each system component with the understanding that video cannot be recorded on the City network and no pre-recorded video will be provided. Tests that fail to meet the requirements will be noted in the submitted SST Plan with the offeror's resolution. These will be resolved at no additional cost to the City.

The City will assign a severity level to each failure recorded:

- **Critical:** The software that fails a test and cannot be resolved within one hour will be considered a critical failure and must be resolved prior to project closeout and final acceptance. A resolution may include a software patch or additional configuration. The resolution shall be documented in the failure log.
- **Minor:** The software that fails a test and can be resolved within one hour will be documented as Minor and the resolution shall be documented in the failure log.

Signed sign-off forms and failure logs shall be delivered to the City following testing. The City will sign the forms when the System is fully accepted.

### **30 Day System Burn-in Period**

Following completion of system testing and acceptance of the System, the System shall enter a 30-day burn-in period. During this time, personnel assigned by the City shall monitor and operate the System according to normal operating conditions. The City, or its designated partner, will develop a daily burn-in procedure to verify the System is operating as intended.

Any deficiencies identified shall be reported to the selected offeror using the same criteria and reporting structure outlined in the SAT. In the event a deficiency arises that disrupts service to the extent that it hinders the continued operation of the system, the City reserves the right to restart the burn-in period. Upon successful completion of the 30-day burn-in period, the selected offeror will be notified by the City in writing that the System has completed the burn-in period.

## **TRAINING**

The selected offeror shall provide initial training utilizing personnel who possess the requisite qualifications and expertise in the system components and software. The selected offeror shall submit a Training Plan Document 30 days prior to training to System users and administrators. The training materials shall specify the scope, content, and duration of the training sessions.

### **Training Session Details**

The selected offeror shall develop and conduct an initial training course for users and administrators of the System. The Training Plan document shall be approved by the City two weeks before the session is held. The initial training session shall not exceed two days, each day lasting up to eight hours, but the City reserves the right to request additional training sessions if the complexity of the System or City personnel requirements deem it necessary. All material provided in the Training Plan document must be covered during the training session. The training session must focus specifically on daily use and administration of the system including system configuration, operation, maintenance, and troubleshooting for personnel responsible for these functions.

The City will provide the facilities and auxiliary equipment (e.g., projector/display) needed to host the training.

All training materials, including presentations and manuals, shall be provided to the City in both digital and hard copy formats to ensure ease of use and future reference. All materials will remain the property of the City once training is complete, and the City or its representatives may submit questions on training up to one month following the training session. The offeror shall respond to all questions within 48 hours. In addition to training materials, the offeror shall provide a user manual in electronic format.

## **SYSTEM OPERATIONS AND MAINTENANCE**

The offeror shall provide a two-year warranty and two (2) years of maintenance and support for hardware, if applicable, and software following system testing and acceptance. A detailed escalation process for critical failures must be included in the support plan, ensuring swift resolution of any issues. Expected services to be provided include the following.

### **Regular Maintenance**

The offeror shall be responsible for providing software maintenance and updates for products and solutions provided under this contract. If server hardware is included in the System, the offeror shall provide the City with resources to troubleshoot hardware issues and provide a resource for repair support.



The offeror shall provide access to a technical support team, which will be available during 9 a.m. and 5 p.m. EST.

### **Release/Maintenance Schedules**

The offeror shall provide City written notice of any pending software releases, patches, or planned maintenance activities, including the anticipated schedule to allow sufficient time for users to prepare for any potential downtime. All new releases, patches, or updates must also include documentation describing any new functions or features added to the software, software bugs addressed, security issues resolved, or other relevant reasons for the new release.

### **Urgent Maintenance**

Urgent maintenance criteria will be developed and agreed to by the City and offeror at the time of System testing and acceptance. The offeror shall acknowledge and respond to urgent maintenance requests made by the City within 24 hours of receiving a written request. After identification or diagnosis of a problem, the offeror shall provide the City the timeframe to complete any troubleshooting or necessary corrections to address the request.

### **Escalation Procedures**

The selected offeror must provide a detailed escalation procedure for addressing system malfunctions and critical issues during both training and ongoing support. This procedure should clearly define the different issue levels (e.g., critical, major, and minor), along with corresponding response times.

- For critical issues—those that disrupt essential system functionality or safety operations—the offeror must acknowledge the issue within 1 hour and provide a resolution plan within 4 hours. The issue must be resolved within 24 hours, or a temporary workaround must be provided.
- For major issues, the offeror must acknowledge within 2 hours and provide a resolution plan within 8 hours, with the issue being fully resolved within 48 hours.
- Minor issues must be addressed within 1 business day, with a resolution plan provided within 5 business days.

The offeror should also outline an escalation process, including communication protocols for providing regular updates to the City. This should include Level 1 technical support as the initial point of contact, Level 2 for escalation to City Project Manager if necessary, and Level 3 for executive-level involvement in case of prolonged disruption. Clear communication channels must be established, and the offeror should provide the City with regular updates on the status of any unresolved issues. This ensures the City has a well-defined process to address system failures promptly, minimizing downtime and ensuring continuity of operations.

## **SYSTEM LICENSES AND SUBSCRIPTIONS**

The selected offeror shall provide all software, 12 user licenses, and subscriptions necessary to operate the System. Offerors shall provide pricing separate from the proposal in a sealed envelope. Pricing information should include software, user licenses, subscription prices, and any other relevant pricing information required to complete the work. The offeror shall guarantee pricing for 2 years to account for renewals or additional licenses, or if the system expands.

## **DOCUMENTATION**

Following contract award, the following deliverables will be expected of the offeror.

### **System Architecture and Integration Plan**

The selected offeror must submit a System architecture and document detailing the installation and integration process for the System such that it is able to interface with identified locations and devices and be used from a workstation located at the City of Ann Arbor traffic management center (TMC). The City will make available IT staff and information that is needed by the selected offeror to complete the integration and data migration plan and tasks. The selected offeror must provide information on the equipment configuration, including software parameters to be configured, if any. The System architecture and integration plan must be submitted within [8 weeks] of contract award to ensure timely implementation and testing.

### **Training Plan**

The offeror must submit a Training Plan document as described in the Training section above.

### **System Acceptance Testing Plan**

The offeror must submit a SAT Plan as described in the Testing and Verification section above.

### **System Operating and Instruction Manuals**

Any operating manuals, system instruction manuals or equivalent documentation must be submitted by the offeror. This documentation shall describe functionality, features, installation, and general operation or use of the System.

### **Summary Report from Vendor**

Following successful integration, installation, and acceptance testing work, the selected offeror shall provide a report summarizing the project work that was undertaken to complete the work. This report will be used by the City in documentation submitted to USDOT as part of the federal grant reporting requirements.

## **SECTION III - MINIMUM INFORMATION REQUIRED**

### **PROPOSAL FORMAT**

Offerors should organize Proposals into the following Sections:

- A. Professional Qualifications
- B. Past Involvement with Similar Projects
- C. Proposed Work Plan
- D. Technical Capabilities of the System
- E. Value Added Factors
- F. Local Presence
- G. Fee Proposal (include in a separate sealed envelope clearly marked "Fee Proposal")
- H. Authorized Negotiator
- I. Attachments

The following describes the elements that should be included in each of the proposal sections and the weighted point system that will be used for evaluation of the proposals.

#### **A. Professional Qualifications – 15 points**

1. State the full name and address of your organization and, if applicable, the branch office or other subsidiary element that will perform, or assist in performing, the work hereunder. Indicate whether it operates as an individual, partnership, or corporation. If as a corporation, include whether it is licensed to operate in the State of Michigan.
2. Include the name of executive and professional personnel by skill and qualification that will be employed in the work. Show where these personnel will be physically located during the time they are engaged in the work. Indicate which of these individuals you consider key to the successful completion of the project. Identify only individuals who will do the work on this project by name and title. Resumes and qualifications are required for all proposed key project personnel, including subcontractors.
3. State history of the firm, in terms of length of existence, types of services provided, etc. Identify the technical details that make the firm uniquely qualified for this work.

**B. Past involvement with Similar Projects – 20 points**

The written proposal must include a list of specific experience in the project area and indicate proven ability in implementing similar projects for the firm and the individuals to be involved in the project. A complete list of client references must be provided for similar projects recently completed. The list shall include the firm/agency name, address, telephone number, project title, and contact person.

**C. Proposed Work Plan – 15 points**

Provide a detailed and comprehensive description of how the offeror intends to provide the System and services requested in this RFP. This description shall include, but not be limited to: how the project will be managed and scheduled, how and when data and materials will be delivered to the City, communication and coordination, the working relationship between the offeror and City staff, and the company's general philosophy in regards to providing the requested System and services.

Offerors shall be evaluated on the clarity, thoroughness, and content of their responses to the above items.

**D. Technical Capabilities of the System – 25 points**

Offerors shall review the System Requirements Matrix in **Attachment B** and complete the Offeror Comments section, as applicable.

Offerors shall be evaluated on their ability to meet the Baseline and/or Desirable requirements as well as the Delivery methods, in addition to the clarity, thoroughness, and content of their comments.

**E. Value-added Factors – 5 points**

The City encourages offerors to meet the technical requirements with creativity and/or to offer additional functionality not identified in the System Requirements Matrix. The offeror shall include any value-added factors in this sub-category.

**F. Local Presence – 5 points**

The evaluation committee will award points in this category based on the local presence of the offeror's firm and team. Local support is defined as in-person resources within a 300-mile radius.

### **G. Fee Proposal - 15 points**

Fee schedules should be submitted in a separate, sealed, envelope as part of the proposal. Fee quotations are to include the names, title, hourly rates, overhead factors, and any other relevant details. The proposal should highlight key staff and positions that would likely be involved with projects. Offerors shall be capable of justifying the details of the fee proposal relative to personnel costs, overhead, how the overhead rate is derived, material and time.

### **H. Authorized Negotiator**

Include the name, phone number, and e-mail address of persons(s) in your organization authorized to negotiate the agreement with the City.

### **I. Attachments**

Legal Status of Offeror, Conflict of Interest Form, Living Wage Compliance Form, and the Non-Discrimination Form, should be returned with the proposal.

These elements should be included as attachments to the proposal submission.

## **PROPOSAL EVALUATION**

1. The selection committee will evaluate each proposal by the above-described criteria and point system (A through G) to select a short-list of firms for further consideration. The City reserves the right to reject any proposal that it determines to be unresponsive and deficient in any of the information requested for evaluation. A proposal with all the requested information does not guarantee the proposing firm to be a candidate for an interview. The committee may contact references to verify material submitted by the offerors.
2. The committee then will schedule interviews with the selected firms if necessary. The selected firms will be given the opportunity to discuss in more detail their qualifications, past experience, proposed work plan and fee proposal.
3. The interview must include the project team members expected to complete a majority of work on the project, but no more than six members total. The interview shall consist of a presentation of up to thirty minutes (or the length provided by the committee) by the offeror, including the person who will be the project manager on this contract, followed by approximately thirty minutes of questions and answers. Audiovisual aids may be used during the oral interviews. The committee may record the oral interviews.
4. The firms interviewed will then be re-evaluated by the above criteria (A through I), and adjustments to scoring will be made as appropriate. After evaluation of the proposals,

further negotiation with the selected firm may be pursued leading to the award of a contract by City Council, if suitable proposals are received.

The City reserves the right to waive the interview process and evaluate the offerors based on their proposals and fee schedules alone and open fee schedules before or prior to interviews.

The City will determine whether the final scope of the project to be negotiated will be entirely as described in this RFP, a portion of the scope, or a revised scope.

Work to be done under this contract is generally described through the detailed specifications and must be completed fully in accordance with the contract documents.

Any proposal that does not conform fully to these instructions may be rejected.

## **PREPARATION OF PROPOSALS**

Proposals should have no plastic bindings but will not be rejected as non-responsive for being bound. Staples or binder clips are acceptable. Proposals should be printed double sided on recycled paper. Proposals should not be more than 30 sheets (60 sides), not including required attachments and resumes.

Each person signing the proposal certifies that they are a person in the offeror's firm/organization responsible for the decisions regarding the fees being offered in the Proposal and has not and will not participate in any action contrary to the terms of this provision.

## **ADDENDA**

If it becomes necessary to revise any part of the RFP, notice of the addendum will be posted to Michigan Inter-governmental Trade Network (MITN) [www.mitn.info](http://www.mitn.info) and/or the City of Ann Arbor web site [www.A2gov.org](http://www.A2gov.org) for all parties to download.

Each offeror must acknowledge in its proposal all addenda it has received. The failure of an offeror to receive or acknowledge receipt of any addenda shall not relieve the offeror of the responsibility for complying with the terms thereof. The City will not be bound by oral responses to inquiries or written responses other than official written addenda.

## **SECTION IV - ATTACHMENTS**

Attachment A – List of Intersections

Attachment B – System Requirements Matrix

Attachment C – Legal Status of Offeror

Attachment D – Non-Discrimination Ordinance Declaration of Compliance Form

Attachment E – Living Wage Declaration of Compliance Form

Attachment F – Vendor Conflict of Interest Disclosure Form

Attachment G - City of Ann Arbor Safe Streets For All (SS4A) Contract Addendum

Attachment H - U.S. Department of Transportation Exhibits To FHWA Grant Agreements Under The Fiscal Year 2022 Safe Streets And Roads For All Grant Program

Attachment I – Non-Discrimination Ordinance Poster

Attachment J – Living Wage Ordinance Poster

## ATTACHMENT A PROJECT LOCATIONS

The following table lists potential locations that will be included in the City of Ann Arbor Near-Miss Video Analytics System project. Each location has an existing Gridsmart detection camera installed. The City may select a subset of locations from this list to move forward with in the Near-Miss Video Analytics System project if cost becomes a factor.

Location Name
Arbordale/Federal & Stadium
Ashley & Huron
Barton & Plymouth
Beal & Plymouth RRFB
Bishop & Plymouth RRFB
Bonisteel & Fuller
Broadway & Maiden Ln
Cancer Center & E. Medical
Catherine & Glen
Dexter & Maple
Division & Huron
Eisenhower & Industrial
Eisenhower & Packard
Eisenhower & Stone School
Ellsworth & State Sys A
Ellsworth & State Sys B
Fifth & Huron
Fuller & Glen
fuller & Huron High School
Fuller and Fuller Ct E
Fuller and Maiden Lane
Fuller/Geddes &Huron Pkwy
Geddes & Huron Pkwy
Georgetown & Plymouth
Glen & Huron
Green & Plymouth
Huron Pkwy & Plymouth
Hubbard & Huron Pkwy
Huron & Chapin Third
Huron & Seventh
Huron Pkwy & Huron River
Huron Pkwy & Platt
Industrial & Stimson
Jackson & I94 EB
Jackson &WB I-94
Jackson and Maple
Jackson/Huron & Dexter/Ravena

Location Name
Liberty & Maple
Liberty & Stadium
Maiden Lane & Nielsen Ct
Main & Hill
Main & Packard
Main & Pauline
Main & Stadium
Main & Madison
Maple & Maple Village
Maple & Miller
Maple & Pauline
Nixon and Plymouth
Observatory & E. Medical
Packard & Platt
Packard & Turnberry
Palmer & Washtenaw
Pauline & Stadium
Plymouth & EPA RRFB
S. Forest/Observatory & W
S. University & Washtenaw
State & Liberty
State St & Stimson
Zina Pitcher & Ann
Ann and Glynn



## ATTACHMENT B SYSTEM REQUIREMENTS MATRIX

### DEFINITIONS AND INSTRUCTIONS

The System Requirements Matrix serves as a comprehensive framework outlining the baseline and desired specifications and functionalities required for the successful implementation of the City of Ann Arbor Near-Miss Video Analytics System project. This document provides details of each requirement. By systematically organizing the requirements, the matrix facilitates understanding, project planning, and quality assurance. Vendors should reference the following definitions and instructions to aid in preparing their response to this request for proposals.

#### DEFINITIONS

##### *Requirement Type*

- A. **Baseline** – The system must meet this requirement to be considered suitable for deployment on this project.
- B. **Desirable** – The system may meet this requirement to provide desired functionality.

##### *Delivery*

As part of their response, the vendor shall indicate the delivery type for each system requirement, as follows:

- A. **Current Software Capability** – The vendor's existing offering (system) provides this functionality in its entirety on day one after being selected.
- B. **Requires Custom Software** – The vendor will work with the City to develop custom software components to meet this requirement. If this delivery method is selected, the vendor shall indicate how long it will take for this functionality to become available after selection, in days.
- C. **Planned Future Enhancement** – The vendor is underway with integrating the functionality of this requirement into its current offering and it will be available within 60 days of selection.
- D. **Not Available** – This requirement cannot be met by the vendor's offering.

##### *Offeror Comments*

The offeror may include additional comments to future indicate their understanding of the requirement and the capabilities of their system, as appropriate.

Requirement ID	Requirement Description	Type		Delivery					Offeror Comments
		Baseline	Desirable	Current Software Capability	Requires Custom Software	Planned Future Enhancement	Not Available		
<b>System Operation Requirements</b>									
A1	The system must be capable of receiving data from existing camera feeds or recorded video footage from any IP-based or analog CCTV cameras and managing the video data securely.	X							
A2	The system shall provide classification of near-miss traffic events and crashes by the following types: - Vehicle-to-pedestrian - Vehicle-to-scooter - Vehicle-to-bicycle - Vehicle-to-vehicle - Single vehicle	X							
A3	The system shall provide tracking of the following objects via multi-object tracking: -Vehicles -Bicyclists -Pedestrians -Scooter	X							
A4	The system shall record details pertaining to each near-miss event including: -Date and time -Object speed -Object trajectory -Post encroachment time (PET) -Time to collision (TTC) -Gap time -Road user classification -Conflict type	X							
A5	The system shall identify various contributing factors, if applicable, for each near-miss event or crash logged, including, but not limited to: -Vehicle speed -Traffic control violations -Pedestrian, bike, and scooter violations (i.e. illegal crossing) -Lane compliance violations -Turning movement violations -Hard braking -Lighting conditions	X							
A6	The system shall provide real-time detection of near-miss events and crashes within 200 milliseconds (ms).		X						
A7	The system shall support the creation of at least 30 object detection templates.		x						
A8	The system shall provide a severity configuration for near-miss events that is configurable to user preferences.	X							
A9	The system shall provide a general-user-interface (GUI) for a desktop computer that supports the monitoring of near-miss traffic events and software configuration.	X							
A10	The system shall provide access to a GUI for a minimum of two simultaneous users.	X							
A11	The system shall have the capability to record video and shall not store any recorded video on City of Ann Arbor networks or property.	X							
A12	The system shall have the capability to continuously learn and improve accuracy over time via artificial intelligence, machine learning, or other means.		X						
A13	The system shall have the capability to configure the software to review video feeds of an intersection, mid-block pedestrian crossing, or other road segment.	X							

Requirement ID	Requirement Description	Type		Delivery					Offeror Comments
		Baseline	Desirable	Current Software Capability	Requires Custom Software	Planned Future Enhancement	Not Available		
<b>Reporting Requirements</b>									
B1	The system shall provide a means of exporting near-miss data into a tabular report that includes summary information, still image or short video, heatmaps, and other visuals that provide insight to near-miss traffic events.	X							
B2	The system shall provide reports filterable by user-defined date ranges, day of the week, or time of day and allow users to compare different date ranges, days, or timeframes.	X							
B3	The system shall be capable of filtering reports by vehicle class or VRUs, by lane, by severity, and by movement.	X							
B4	The system shall provide the ability to export data and reports in common file formats. File format must include .pdf, .csv., .xlsx, and .txt.	X							
B5	The system must be capable of distributing configurable push notifications and alerts for events via email, SMS, or a custom API within five minutes of the detected event.		X						
B6	Any output from the system shall blur out personal identification information within the video.	X							
<b>Hardware Requirements</b>									
C1	The system must make use of and be compatible with off-the-shelf hardware including servers, cameras, and traffic signal controllers. The system shall make use of the following architecture: - The solution must not require the installation of any additional hardware at individual intersections for data collection, processing, or storage. - The vendor may install a server within the City's existing server infrastructure for centralized processing. However, video recording or storage of any kind is not permitted on this central server. - A cloud-based solution for video processing is acceptable. All video must be streamed directly to the cloud, where processing occurs, with no on-premises or central server storage of video or video recordings.	X							
C2	The system shall support the addition of new camera deployments.	X							
C3	The system shall be able to integrate with traffic signal controllers using Network (SNMP, HTTP) communication and shall support common traffic signal controller protocols such as NTCIP 1202 and AB3418.	X							
C4		X							
<b>Processing Requirements</b>									
D1	The system shall be capable of suppressing duplicate events from multiple cameras.	X							
D2	The system must be capable of predicting movement and intent that could lead to dangerous situations involving road users.	X							
D3	The system must be capable of processing high-definition video ranging from 720p to 4K resolution.	X							
D4	The system must be capable of analyzing various video formats including .mp4, H.264, and H.265.	X							
D5	The system must be capable of analyzing video from various lense types, such as, 360 degree, fish-eye, etc.	X							
<b>Data Management Requirements</b>									
E1	The system must be capable of connecting and integrating into the City of Ann Arbor's ITS network.	X							
E2	Data must be stored on the Offeror's offsite cloud-based system in the US and not on the City of Ann Arbor's network.	X							
<b>Security Requirements</b>									
F1	Data on the cloud-based server shall be encrypted at all times.	X							
F2	The cloud-based server shall make use of firewalls, VPNs, and other security configurations to prevent unauthorized access.	X							
F3	The server shall undergo routine testing and auditing bi-annually for vulnerabilities to identify and mitigate security risks.	X							
F4	The system shall be in compliance with ISO/IEC 27001 standards.	X							
<b>Installation and Integration Requirements</b>									
G1	The offeror shall provide all labor, materials, equipment and any incidentals required to furnish, install, configure, and test the system.	X							
<b>Testing and Verification Requirements</b>									
H1	ready for service. The test plan shall consist of the following: -individual test cases with clear passing criteria for all project components, software, cloud infrastructure and/or centralized server, and systems -local device, software, subsystem, and system testing for all components, software, cloud infrastructure and/or centralized server, and systems integrated through this project Failures during testing must be included in a report that documents the defect or setting and the corrective action taken. Minor failures may be addressed and retested at the City's discretion. Major failures, which would require additional work may cause a temporary pause to testing until the issue has been resolved. No extension of time or additional payments will be given or made due to delays caused by failed acceptance testing.	X							
H2		X							

Requirement ID	Requirement Description	Type		Delivery				Offeror Comments
		Baseline	Desirable	Current Software Capability	Requires Custom Software	Planned Future Enhancement	Not Available	
H3	The SAT forms as well as any supplemental documentation completed during the testing are to be delivered to the City upon system acceptance. The forms must be signed by the City.	x						
H4	The offeror shall conduct stand-alone tests of and local hardware device (e.g., centralized server) and associated components installed as part of the System, if applicable. The local device acceptance test (LDAT) must, at a minimum, exercise all functional requirements of the server equipment and any associated components.	x						
H5	The offeror shall conduct stand-alone tests of the software and associated components installed as part of the System. The software test (ST) must, at a minimum, exercise all functional requirements of the software and any associated components.	x						
H6	The offeror shall conduct a subsystem test (SST) to verify that the cloud server is functioning correctly.	x						
H7	Final system testing (FST) is the last step in the SAT and serves as the basis for system acceptance. The FST shall be performed at the at City following completion of the SST to verify that the City can access the cloud-based software. After the successful completion of the FST, the burn-in period shall begin for the software.	x						
<b>Compliance Requirements</b>								
I1	The offeror shall comply with the following requirements of regulatory agencies. 1. Institute of Electrical and Electronics Engineers (IEEE) 802.X 2. National Transportation Communications for ITS Protocol (NTCIP)	x						
<b>Training Requirements</b>								
J1	The offeror shall provide comprehensive end-user training. Provide all training material, including hand-outs, a minimum of 30 days prior to the delivery of the training. Training materials shall include the scope, content, and duration of the training session(s). Training shall be conducted over a two-day period, maximum, up to eight hours per day, or as requested by the City. Course materials will remain the property of the City of Ann Arbor. Demonstration equipment or training aids must be provided by the offeror.	x						
J2	A comprehensive user-manual shall be provided alongside the delivery of the System. The user-manual shall be electronic format.	x						
<b>Maintenance Requirements</b>								
K1	The offeror must provide maintenance and technical support services to ensure continued functionality and operation of the system for two years following the approval of the SAT.	x						
K2	The system must be capable of allowing remote and local configuration and maintenance.	x						
K3	The system must be capable of maintaining a 99% uptime.	x						
K4	The system must be capable of receiving software updates and patches throughout the life of the software.	x						
K5	The system must be capable of providing system health and status checks to both the offeror and to the City.	x						
K6	The system shall be supported by a technical support team, which shall be available to provide assistance during 8A-5P EST.	x						
K7	The offeror shall respond to maintenance or support requests by the City within 24 hours. The offeror shall provide escalation procedures if a request cannot be responded to or supported within a 24 hour period.	x						
<b>Submittal Requirements</b>								
L1	The offeror shall provide a system architecture diagram of the proposed solution, detailing all communications links for proposed servers and software required to integrate with existing City facilities, network and infrastructure.	x						
L2	The offeror shall provide a system integration plan that details the installation and integration process of the system into the City of Ann Arbor network.	x						
L3	The offeror shall submit training materials as outlined in J1.	x						
L4	The offeror shall submit a SAT as outlined in H1 through H7.	x						
L5	The offeror shall submit user-manual(s) as outlined in J2.	x						

**ATTACHMENT C  
LEGAL STATUS OF OFFEROR**

(The Respondent shall fill out the provision and strike out the remaining ones.)

The Respondent is:

- A corporation organized and doing business under the laws of the state of \_\_\_\_\_, for whom \_\_\_\_\_ bearing the office title of \_\_\_\_\_, whose signature is affixed to this proposal, is authorized to execute contracts on behalf of respondent.\*

\*If not incorporated in Michigan, please attach the corporation's Certificate of Authority

- A limited liability company doing business under the laws of the State of \_\_\_\_\_, whom \_\_\_\_\_ bearing the title of \_\_\_\_\_ whose signature is affixed to this proposal, is authorized to execute contract on behalf of the LLC.
- A partnership organized under the laws of the State of \_\_\_\_\_ and filed with the County of \_\_\_\_\_, whose members are (attach list including street and mailing address for each.)
- An individual, whose signature with address, is affixed to this RFP.

Respondent has examined the basic requirements of this RFP and its scope of services, including all Addendum (if applicable) and hereby agrees to offer the services as specified in the RFP.

\_\_\_\_\_  
Signature \_\_\_\_\_ Date: \_\_\_\_\_,

(Print) Name \_\_\_\_\_ Title \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Phone \_\_\_\_\_

Fax \_\_\_\_\_

Email \_\_\_\_\_

**ATTACHMENT D  
CITY OF ANN ARBOR DECLARATION OF COMPLIANCE**

**Non-Discrimination Ordinance**

The “non discrimination by city contractors” provision of the City of Ann Arbor Non-Discrimination Ordinance (Ann Arbor City Code Chapter 112, Section 9:158) requires all contractors proposing to do business with the City to treat employees in a manner which provides equal employment opportunity and does not discriminate against any of their employees, any City employee working with them, or any applicant for employment on the basis of actual or perceived age, arrest record, color, disability, educational association, familial status, family responsibilities, gender expression, gender identity, genetic information, height, HIV status, marital status, national origin, political beliefs, race, religion, sex, sexual orientation, source of income, veteran status, victim of domestic violence or stalking, or weight. It also requires that the contractors include a similar provision in all subcontracts that they execute for City work or programs.

In addition the City Non-Discrimination Ordinance requires that all contractors proposing to do business with the City of Ann Arbor must satisfy the contract compliance administrative policy adopted by the City Administrator. A copy of that policy may be obtained from the Purchasing Manager

The Contractor agrees:

- (a) To comply with the terms of the City of Ann Arbor’s Non-Discrimination Ordinance and contract compliance administrative policy.
- (b) To post the City of Ann Arbor’s Non-Discrimination Ordinance Notice in every work place or other location in which employees or other persons are contracted to provide services under a contract with the City.
- (c) To provide documentation within the specified time frame in connection with any workforce verification, compliance review or complaint investigation.
- (d) To permit access to employees and work sites to City representatives for the purposes of monitoring compliance, or investigating complaints of non-compliance.

The undersigned states that he/she has the requisite authority to act on behalf of his/her employer in these matters and has offered to provide the services in accordance with the terms of the Ann Arbor Non-Discrimination Ordinance. The undersigned certifies that he/she has read and is familiar with the terms of the Non-Discrimination Ordinance, obligates the Contractor to those terms and acknowledges that if his/her employer is found to be in violation of Ordinance it may be subject to civil penalties and termination of the awarded contract.

**[The signature section is located on the next page]**

---

Company Name

---

Signature of Authorized Representative

Date

---

Print Name and Title

---

Address, City, State, Zip

---

Phone/Email address

**Questions about the Notice or the City Administrative Policy, Please contact:**

Procurement Office of the City of Ann Arbor

(734) 794-6500

Revised 3/31/15 Rev. 0

NDO-2

**ATTACHMENT E  
CITY OF ANN ARBOR  
LIVING WAGE ORDINANCE DECLARATION OF COMPLIANCE**

The Ann Arbor Living Wage Ordinance (Section 1:811-1:821 of Chapter 23 of Title I of the Code) requires that an employer who is (a) a contractor providing services to or for the City for a value greater than \$10,000 for any twelve-month contract term, or (b) a recipient of federal, state, or local grant funding administered by the City for a value greater than \$10,000, or (c) a recipient of financial assistance awarded by the City for a value greater than \$10,000, shall pay its employees a prescribed minimum level of compensation (i.e., Living Wage) for the time those employees perform work on the contract or in connection with the grant or financial assistance. The Living Wage must be paid to these employees for the length of the contract/program.

*Companies employing fewer than 5 persons and non-profits employing fewer than 10 persons are exempt from compliance with the Living Wage Ordinance. If this exemption applies to your company/non-profit agency please check here  No. of employees\_\_*

The Contractor or Grantee agrees:

- (a) To pay each of its employees whose wage level is not required to comply with federal, state or local prevailing wage law, for work covered or funded by a contract with or grant from the City, no less than the Living Wage. The current Living Wage is defined as \$16.43/hour for those employers that provide employee health care (as defined in the Ordinance at Section 1:815 Sec. 1 (a)), or no less than \$18.32/hour for those employers that do not provide health care. The Contractor or Grantor understands that the Living Wage is adjusted and established annually on April 30 in accordance with the Ordinance and covered employers shall be required to pay the adjusted amount thereafter to be in compliance with Section 1:815(3).

**Check the applicable box below which applies to your workforce**

- Employees who are assigned to any covered City contract/grant will be paid at or above the applicable living wage without health benefits
- Employees who are assigned to any covered City contract/grant will be paid at or above the applicable living wage with health benefits

- (b) To post a notice approved by the City regarding the applicability of the Living Wage Ordinance in every work place or other location in which employees or other persons contracting for employment are working.
- (c) To provide to the City payroll records or other documentation within ten (10) business days from the receipt of a request by the City.
- (d) To permit access to work sites to City representatives for the purposes of monitoring compliance, and investigating complaints or non-compliance.
- (e) To take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee covered by the Living Wage Ordinance or any person contracted for employment and covered by the Living Wage Ordinance in order to pay the living wage required by the Living Wage Ordinance.

The undersigned states that he/she has the requisite authority to act on behalf of his/her employer in these matters and has offered to provide the services or agrees to accept financial assistance in accordance with the terms of the Living Wage Ordinance. The undersigned certifies that he/she has read and is familiar with the terms of the Living Wage Ordinance, obligates the Employer/Grantee to those terms and acknowledges that if his/her employer is found to be in violation of Ordinance it may be subject to civil penalties and termination of the awarded contract or grant of financial assistance.

**[The signature section is located on the next page]**



---

Company Name

Street Address

---

Signature of Authorized Representative

Date City, State, Zip

---

Print Name and Title

Phone/Email address



**ATTACHMENT F**

**VENDOR CONFLICT OF INTEREST DISCLOSURE FORM**

All vendors interested in conducting business with the City of Ann Arbor must complete and return the Vendor Conflict of Interest Disclosure Form in order to be eligible to be awarded a contract. Please note that all vendors are subject to comply with the City of Ann Arbor's conflict of interest policies as stated within the certification section below.

If a vendor has a relationship with a City of Ann Arbor official or employee, an immediate family member of a City of Ann Arbor official or employee, the vendor shall disclose the information required below.

1. No City official or employee or City employee's immediate family member has an ownership interest in vendor's company or is deriving personal financial gain from this contract.
2. No retired or separated City official or employee who has been retired or separated from the City for less than one (1) year has an ownership interest in vendor's Company.
3. No City employee is contemporaneously employed or prospectively to be employed with the vendor.
4. Vendor hereby declares it has not and will not provide gifts or hospitality of any dollar value or any other gratuities to any City employee or elected official to obtain or maintain a contract.
5. Please note any exceptions below:

<b>Conflict of Interest Disclosure*</b>	
Name of City of Ann Arbor employees, elected officials or immediate family members with whom there may be a potential conflict of interest.	<input type="checkbox"/> Relationship to employee <hr/> <input type="checkbox"/> Interest in vendor's company <input type="checkbox"/> Other (please describe in box below)

\*Disclosing a potential conflict of interest does not disqualify vendors. In the event vendors do not disclose potential conflicts of interest and they are detected by the City, vendor will be exempt from doing business with the City.

<b>I certify that this Conflict-of-Interest Disclosure has been examined by me and that its contents are true and correct to my knowledge and belief and I have the authority to so certify on behalf of the Vendor by my signature below:</b>		
<b>Vendor Name</b>	<b>Vendor Phone Number</b>	
<b>Signature of Vendor Authorized Representative</b>	<b>Date</b>	<b>Printed Name of Vendor Authorized Representative</b>

Questions about this form? Contact Procurement Office City of Ann Arbor Phone: 734/794-6500, [procurement@a2gov.org](mailto:procurement@a2gov.org)

**Attachment G**

City of Ann Arbor Safe Streets For All (SS4A) Contract Addendum

**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**

Original: February 8, 2023  
Revision 1: March 28, 2023  
Revision 2: August 1, 2023

## Table of Contents

Article 7 Purpose.....	6
7.1 Purpose.....	6
Article 8 USDOT Role.....	6
8.1 Division of USDOT Responsibilities.....	6
8.2 USDOT Program Contacts.....	7
Article 9 Recipient Role.....	7
9.1 Statements on the Project.....	7
9.2 Statements on Authority and Capacity.....	7
9.3 USDOT Reliance.....	8
9.4 Project Delivery.....	8
9.5 Rights and Powers Affecting the Project.....	8
9.6 Notification of Changes to Key Personnel.....	9
Article 10 Award Amount, Obligation, and Time Periods.....	9
10.1 Federal Award Amount.....	9
10.2 Federal Obligations.....	9
10.3 Budget Period.....	10
10.4 Period of Performance.....	10
Article 11 Statement of Work, Schedule, and Budget Changes.....	11
11.1 Notification Requirement.....	11
11.2 Statement of Work Changes.....	11
11.3 Schedule Changes.....	11
11.4 Budget Changes.....	11
11.5 USDOT Acceptance of Changes.....	12
Article 12 General Reporting Terms.....	12
12.1 Report Submission.....	12
12.2 Alternative Reporting Methods.....	13
12.3 Paperwork Reduction Act Notice.....	13
Article 13 Progress and Financial Reporting.....	13
13.1 Quarterly Program Performance Reports.....	13
13.2 Quarterly Financial Status.....	13
Article 14 Performance Reporting.....	13
14.1 Baseline Performance Measurement.....	13
14.2 Section 24112(h) Report.....	14
Article 15 Noncompliance and Remedies.....	15
15.1 Noncompliance Determinations.....	15
15.2 Remedies.....	15
15.3 Other Oversight Entities.....	16
Article 16 Agreement Termination.....	16
16.1 USDOT Termination.....	16
16.2 Closeout Termination.....	17
16.3 Post-Termination Adjustments.....	17
16.4 Non-Terminating Events.....	17
16.5 Other Remedies.....	17
Article 17 Monitoring, Financial Management, Controls, and Records.....	18
17.1 Recipient Monitoring and Record Retention.....	18
17.2 Financial Records and Audits.....	18
17.3 Internal Controls.....	18

17.4	USDOT Record Access.....	19
Article 18	Contracting and Subawards.....	19
18.1	Build America, Buy America. ....	19
18.2	Small and Disadvantaged Business Requirements.....	21
18.3	Engineering and Design Services.....	21
18.4	Foreign Market Restrictions. ....	21
18.5	Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment... 21	
18.6	Recipient Responsibilities For Subawards. ....	21
18.7	Subaward and Contract Authorization. ....	22
Article 19	Costs, Payments, and Unexpended Funds .....	22
19.1	Limitation of Federal Award Amount.....	22
19.2	Projects Costs.....	22
19.3	Timing of Project Costs.....	22
19.4	Recipient Recovery of Federal Funds. ....	22
19.5	Unexpended Federal Funds. ....	22
19.6	Timing of Payments to the Recipient. ....	23
19.7	Payment Method. ....	23
19.8	Information Supporting Expenditures.....	23
19.9	Reimbursement Frequency. ....	23
Article 20	Liquidation, Adjustments, and Funds Availability.....	23
20.1	Liquidation of Recipient Obligations. ....	23
Article 21	Agreement Modifications .....	23
21.1	Bilateral Modifications.....	23
21.2	Unilateral Contact Modifications.....	24
21.3	USDOT Unilateral Modifications. ....	24
21.4	Other Modifications. ....	24
Article 22	Climate Change and Environmental Justice .....	24
22.1	Climate Change and Environmental Justice. ....	24
Article 23	Racial Equity and Barriers to Opportunity .....	24
23.1	Racial Equity and Barriers to Opportunity. ....	24
Article 24	Federal Financial Assistance, Administrative, and National Policy Requirements .....	25
24.1	Uniform Administrative Requirements for Federal Awards.....	25
24.2	Federal Law and Public Policy Requirements. ....	25
24.3	Federal Freedom of Information Act.....	25
24.4	History of Performance. ....	25
24.5	Whistleblower Protection. ....	25
24.6	External Award Terms and Obligations. ....	25
24.7	Incorporated Certifications. ....	26
Article 25	Assignment.....	26
25.1	Assignment Prohibited. ....	26
Article 26	Waiver.....	26
26.1	Waivers.....	26
Article 27	Additional Terms and Conditions .....	27
27.1	Effect of Action Plan or Implementation Plan.....	27
27.2	Disclaimer of Federal Liability.....	27
27.3	Environmental Review .....	27
27.4	Railroad Coordination.....	28
27.5	Relocation and Real Property Acquisition. ....	28
27.6	Equipment Disposition. ....	29
Article 28	Mandatory Award Information .....	29

28.1	Information Contained in a Federal Award.....	29
Article 29	Construction and Definitions .....	29
29.1	Attachments.....	29
29.2	Exhibits.....	29
29.3	Construction.....	30
29.4	Integration.....	30
29.5	Definitions.....	30
Article 30	Agreement Execution and Effective Date.....	30
30.1	Counterparts.....	30
30.2	Effective Date.....	30

**Index of Definitions**

Administering Operating Administration.....7  
Environmental Review Entity.....25  
Federal Share .....11  
FHWA .....7  
NOFO .....6  
OMB.....11  
Program Statute.....28  
Project.....19  
Project Closeout.....16  
SS4A Grant.....28  
USDOT.....6



## 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 budget period listed in section 2.5 of the grant agreement.

(a) If the Federal Obligation Type identified in section 2.3 is "Single," then the project-specific agreement obligates for the budget period the amount listed in section 2.2. as the Grant Amount and sections 10.2 (c)–10.2(f) do not apply to the project specific agreement.

(b) If the Federal Obligation Type identified in section 2.3 is "Multiple," then an amount up to the Grant Amount listed in section 2.2 will be obligated with one initial obligation and one or more subsequent, optional obligations, as described in sections 10.2(c)–10.2(f).

(c) The Obligation Condition Table in section 2.3 allocates the Grant among separate portions of the Project for the purpose of the Federal obligation of funds. The scope of each portion of the Project that is identified in that table is described in section 2.3.

(d) The project-specific agreement obligates for the budget period only the amounts allocated in the Obligation Condition Table in section 2.3 to portions of the Project for which that table does not list an obligation condition.

(e) The project-specific agreement does not obligate amounts allocated in the Obligation Condition Table in section 2.3 to portions of the Project for which that table lists an obligation condition. The parties may obligate the amounts allocated to those portions of the Project only by modifying the project specific agreement under section 21.

(f) For each portion of the Project for which the Obligation Condition Table in section 2.3 lists an obligation condition, the amount allocated in that table to that portion of the Project will be obligated if the condition is met not later than the date listed in Section 2.5 of the project-specific agreement.

(g) For any portion of the Project for which the Obligation Condition Table in section 2.3 lists an obligation condition, if the obligation condition is satisfied, the parties amend this agreement documenting that:

(1) the FHWA determines that the obligation condition listed in that table for that portion of the Project is satisfied; and

(2) the FHWA determines that all applicable Federal requirements for obligating the amount are satisfied.

(h) The Recipient shall not request reimbursement of costs for a portion of the Project for which the Obligation Condition Table in section 2.3 lists an obligation condition, unless the amount allocated in that table to that portion of the Project is obligated under section 10.2(c)-(f).

**(i) Reserved.**

**(j) The Recipient acknowledges that:**

(1) the FHWA is not liable for payments for a portion of the Project for which the Obligation Condition Table in section 2.3 lists an obligation condition, unless the amount allocated in that table to that portion of the Project is obligated under section 10.2(c)-(f);

(2) any portion of the Grant that is not obligated under this section 10.2 by the budget period end date identified in the project-specific agreement for those funds lapses on the day after that date and becomes unavailable for the Project; and

(3) the FHWA may consider the failure to obligate funds by the budget period end date identified in the project-specific agreement as applicable to the Grant Program for those funds to be a basis for terminating the project-specific agreement under section 16.

### **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 2.5, 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 2.4.

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>, July 20<sup>th</sup>, and October 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 this 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 [https://www.transportation.gov/sites/dot.gov/files/2023-02/SS4A-FY22-FHWA-Exhibits\\_2023-02-08.pdf](https://www.transportation.gov/sites/dot.gov/files/2023-02/SS4A-FY22-FHWA-Exhibits_2023-02-08.pdf), 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 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.

**Attachment H**

U.S. DEPARTMENT OF TRANSPORTATION  
EXHIBITS TO FHWA GRANT AGREEMENTS UNDER THE FISCAL YEAR 2022  
SAFE STREETS AND ROADS FOR ALL GRANT PROGRAM  
February 8, 2023

**U.S. DEPARTMENT OF TRANSPORTATION**

**EXHIBITS TO FHWA GRANT AGREEMENTS UNDER THE  
FISCAL YEAR 2022 SAFE STREETS AND ROADS FOR ALL GRANT PROGRAM**

**February 8, 2023**

**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.

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



**ATTACHMENT I  
CITY OF ANN ARBOR NON-DISCRIMINATION ORDINANCE**

Relevant provisions of Chapter 112, Nondiscrimination, of the Ann Arbor City Code are included below.  
You can review the entire ordinance at [www.a2gov.org/humanrights](http://www.a2gov.org/humanrights).

**Intent:** It is the intent of the city that no individual be denied equal protection of the laws; nor shall any individual be denied the enjoyment of his or her civil or political rights or be discriminated against because of actual or perceived age, arrest record, color, disability, educational association, familial status, family responsibilities, gender expression, gender identity, genetic information, height, HIV status, marital status, national origin, political beliefs, race, religion, sex, sexual orientation, source of income, veteran status, victim of domestic violence or stalking, or weight.

**Discriminatory Employment Practices:** No person shall discriminate in the hire, employment, compensation, work classifications, conditions or terms, promotion or demotion, or termination of employment of any individual. No person shall discriminate in limiting membership, conditions of membership or termination of membership in any labor union or apprenticeship program.

**Discriminatory Effects:** No person shall adopt, enforce or employ any policy or requirement which has the effect of creating unequal opportunities according to actual or perceived age, arrest record, color, disability, educational association, familial status, family responsibilities, gender expression, gender identity, genetic information, height, HIV status, marital status, national origin, political beliefs, race, religion, sex, sexual orientation, source of income, veteran status, victim of domestic violence or stalking, or weight for an individual to obtain housing, employment or public accommodation, except for a bona fide business necessity. Such a necessity does not arise due to a mere inconvenience or because of suspected objection to such a person by neighbors, customers or other persons.

**Nondiscrimination by City Contractors:** All contractors proposing to do business with the City of Ann Arbor shall satisfy the contract compliance administrative policy adopted by the City Administrator in accordance with the guidelines of this section. All city contractors shall ensure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate inequality based upon any classification protected by this chapter. All contractors shall agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of any applicable protected classification. All contractors shall be required to post a copy of Ann Arbor's Non-Discrimination Ordinance at all work locations where its employees provide services under a contract with the city.

**Complaint Procedure:** If any individual believes there has been a violation of this chapter, he/she may file a complaint with the City's Human Rights Commission. The complaint must be filed within 180 calendar days from the date of the individual's knowledge of the allegedly discriminatory action or 180 calendar days from the date when the individual should have known of the allegedly discriminatory action. A complaint that is not filed within this timeframe cannot be considered by the Human Rights Commission. To file a complaint, first complete the complaint form, which is available at [www.a2gov.org/humanrights](http://www.a2gov.org/humanrights). Then submit it to the Human Rights Commission by e-mail ([hrc@a2gov.org](mailto:hrc@a2gov.org)), by mail (Ann Arbor Human Rights Commission, PO Box 8647, Ann Arbor, MI 48107), or in person (City Clerk's Office). For further information, please call the commission at 734-794-6141 or e-mail the commission at [hrc@a2gov.org](mailto:hrc@a2gov.org).

**Private Actions For Damages or Injunctive Relief:** To the extent allowed by law, an individual who is the victim of discriminatory action in violation of this chapter may bring a civil action for appropriate injunctive relief or damages or both against the person(s) who acted in violation of this chapter.

**THIS IS AN OFFICIAL GOVERNMENT NOTICE AND  
MUST BE DISPLAYED WHERE EMPLOYEES CAN READILY SEE IT.**

## ATTACHMENT J

### CITY OF ANN ARBOR LIVING WAGE ORDINANCE

#### **RATE EFFECTIVE APRIL 30, 2024 - ENDING APRIL 29, 2025**

**\$16.43 per hour**

If the employer provides health care benefits\*

**\$18.32 per hour**

If the employer does **NOT** provide health care benefits\*

Employers providing services to or for the City of Ann Arbor or recipients of grants or financial assistance from the City of Ann Arbor for a value of more than \$10,000 in a twelve-month period of time must pay those employees performing work on a City of Ann Arbor contract or grant, the above living wage.

### **ENFORCEMENT**

The City of Ann Arbor may recover back wages either administratively or through court action for the employees that have been underpaid in violation of the law. Persons denied payment of the living wage have the right to bring a civil action for damages in addition to any action taken by the City.

Violation of this Ordinance is punishable by fines of not more than \$500/violation plus costs, with each day being considered a separate violation. Additionally, the City of Ann Arbor has the right to modify, terminate, cancel or suspend a contract in the event of a violation of the Ordinance.

\* Health Care benefits include those paid for by the employer or making an employer contribution toward the purchase of health care. The employee contribution must not exceed \$.50 an hour for an average work week; and the employer cost or contribution must equal no less than \$1/hr for the average work week.

**The Law Requires Employers to Display This Poster Where Employees Can Readily See It.**

**For Additional Information or to File a Complaint contact  
Colin Spencer at 734/794-6500 or [cspencer@a2gov.org](mailto:cspencer@a2gov.org)**

## APPENDIX A - SAMPLE CONTRACT

### PROFESSIONAL SERVICES AGREEMENT BETWEEN [TBD] AND THE CITY OF ANN ARBOR FOR [TBD]

This agreement ("Agreement") is between the City of Ann Arbor, a Michigan municipal corporation, 301 E. Huron St. Ann Arbor, Michigan 48104 ("City"), and [TBD], a(n) [TBD] \_\_\_\_\_, [TBD], [TBD], [TBD] [TBD] ("Contractor"). City and Contractor agree as follows:

#### 1. DEFINITIONS

**Administering Service Area/Unit** means [TBD].

**Contract Administrator** means [TBD], acting personally or through any assistants authorized by the Administrator/Manager of the Administering Service Area/Unit.

**Deliverables** means all documents, plans, specifications, reports, recommendations, and other materials developed for and delivered to City by Contractor under this Agreement.

**Effective Date** means the date this Agreement is signed by the last party to sign it.

**Project** means [TBD].

**Services** means [TBD] as further described in Exhibit A.

#### 2. DURATION

- A. The obligations of this Agreement shall apply beginning on the Effective Date and this Agreement shall remain in effect until satisfactory completion of the Services unless terminated as provided for in this Agreement.

#### 3. SERVICES

- A. Contractor shall perform all Services in compliance with this Agreement. The City retains the right to make changes to the quantities of Services within the general scope of the Agreement at any time by a written order. If the changes add to or deduct from the extent of the Services, the compensation shall be adjusted accordingly. All such changes shall be executed under the conditions of the original Agreement.
- B. Quality of Services under this Agreement shall be of the level of quality performed by persons regularly rendering this type of service. Determination of acceptable quality shall be made solely by the Contract Administrator.
- C. Contractor shall perform Services in compliance with all applicable statutory, regulatory, and contractual requirements now or hereafter in effect. Contractor shall also comply with and be subject to City policies applicable to independent contractors.

- D. Contractor may rely upon the accuracy of reports and surveys provided by the City, except when a defect should have been apparent to a reasonably competent professional or when Contractor has actual notice of a defect.

#### **4. INDEPENDENT CONTRACTOR**

- A. The parties agree that at all times and for all purposes under the terms of this Agreement each party's relationship to any other party shall be that of an independent contractor. Each party is solely responsible for the acts of its own employees, agents, and servants. No liability, right, or benefit arising out of any employer-employee relationship, either express or implied, shall arise or accrue to any party as a result of this Agreement.
- B. Contractor does not have any authority to execute any contract or agreement on behalf of the City, and is not granted any authority to assume or create any obligation or liability on the City's behalf, or to bind the City in any way.

#### **5. COMPENSATION OF CONTRACTOR**

- A. The total amount of compensation paid to Contractor under this Agreement shall not exceed \$0.00, which shall be paid upon invoice by Contractor to the City for services rendered according to the schedule in Exhibit B. Compensation of Contractor includes all reimbursable expenses unless a schedule of reimbursable expenses is included in an attached Exhibit B. Expenses outside those identified in the attached schedule must be approved in advance by the Contract Administrator.
- B. Payment shall be made monthly following receipt of invoices submitted by Contractor and approved by the Contract Administrator, unless a different payment schedule is specified in Exhibit B.
- C. Contractor shall be compensated for additional work or Services beyond those specified in this Agreement only when the scope of and compensation for the additional work or Services have received prior written approval of the Contract Administrator.
- D. Contractor shall keep complete records of work performed (e.g. tasks performed, hours allocated, etc.) so that the City may verify invoices submitted by Contractor. Such records shall be made available to the City upon request and submitted in summary form with each invoice.

#### **6. INSURANCE/INDEMNIFICATION**

- A. Contractor shall procure and maintain from the Effective Date or Commencement Date of this Agreement (whichever is earlier) through the conclusion of this Agreement, such insurance policies, including those required by this Agreement, as will protect itself and the City from all claims for bodily injury, death, or property damage that may arise under this Agreement; whether the act(s) or omission(s) giving rise to the claim were made by Contractor, Contractor's subcontractor, or anyone employed by Contractor

or Contractor's subcontractor directly or indirectly. Prior to commencement of work under this Agreement, Contractor shall provide documentation to the City demonstrating Contractor has obtained the policies and endorsements required by this Agreement. Contractor shall provide such documentation in a form and manner satisfactory to the City. Currently, the City requires insurance to be submitted through its contractor, myCOI. Contractor shall add registration@mycoitracking.com to its safe sender's list so that it will receive necessary communication from myCOI. When requested, Contractor shall provide the same documentation for its subcontractors.

- B. All insurance providers of Contractor shall be authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V". Insurance policies and certificates issued by non-authorized insurance companies are not acceptable unless approved in writing by the City.
- C. To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold the City and its officers, employees, and agents harmless from all suits, claims, judgments, and expenses, including attorney's fees, resulting or alleged to result, from an act or omission by Contractor or Contractor's employees or agents occurring in the performance or breach of this Agreement, except to the extent that any suit, claim, judgment, or expense are finally judicially determined to have resulted from the City's negligence, willful misconduct, or failure to comply with a material obligation of this Agreement. The obligations of this paragraph shall survive the expiration or termination of this Agreement.
- D. Contractor is required to have the following minimum insurance coverage:
  - 1. Professional Liability Insurance or Errors and Omissions Insurance protecting Contractor and its employees - \$1,000,000.
  - 2. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 04 13 or current equivalent. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements that diminish the City's protections as an additional insured under the policy.

\$1,000,000	Each occurrence as respect Bodily Injury Liability or Property Damage Liability, or both combined
\$2,000,000	Per project General Aggregate
\$1,000,000	Personal and Advertising Injury
  - 3. Worker's Compensation Insurance in accordance with all applicable state and federal statutes; also, Employers Liability Coverage for:

Bodily Injury by Accident - \$500,000 each accident
Bodily Injury by Disease - \$500,000 each employee
Bodily Injury by Disease - \$500,000 each policy limit
  - 4. Motor Vehicle Liability Insurance equivalent to, as a minimum, Insurance Services Office form CA 00 01 10 13 or current equivalent. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles. The

City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements that diminish the City's protections as an additional insured under the policy. The limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.

5. Umbrella/Excess Liability Insurance shall be provided to apply in excess of the Commercial General Liability, Employers Liability and the Motor Vehicle coverage enumerated above, for each occurrence and for aggregate in the amount of \$1,000,000.
- E. Commercial General Liability Insurance and Motor Vehicle Liability Insurance (if required by this Agreement) shall be considered primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Contractor agrees to waive any right of recovery by its insurer against the City for any insurance listed herein.
- F. Insurance companies and policy forms are subject to approval of the City Attorney, which approval shall not be unreasonably withheld. Documentation must provide and demonstrate an unconditional and unqualified 30-day written notice of cancellation in favor of the City of Ann Arbor. Further, the documentation must explicitly state the following: (a) the policy number(s); name of insurance company; name(s), email address(es), and address(es) of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts; (b) any deductibles or self-insured retentions, which may be approved by the City in its sole discretion; (c) that the policy conforms to the requirements specified. Contractor shall furnish the City with satisfactory certificates of insurance and endorsements prior to commencement of any work. If any of the above coverages expire by their terms during the term of this Agreement, Contractor shall deliver proof of renewal and/or new policies and endorsements to the Administering Service Area/Unit at least ten days prior to the expiration date.

## 7. **WAGE AND NONDISCRIMINATION REQUIREMENTS**

- A. Nondiscrimination. Contractor shall comply, and require its subcontractors to comply, with the nondiscrimination provisions of MCL 37.2209. Contractor shall comply with the provisions of Section 9:158 of Chapter 112 of Ann Arbor City Code and assure that Contractor's applicants for employment and employees are treated in a manner which provides equal employment opportunity.
- B. Living Wage. If Contractor is a "covered employer" as defined in Chapter 23 of Ann Arbor City Code, Contractor must comply with the living wage provisions of Chapter 23 of Ann Arbor City Code, which requires Contractor to pay those employees providing Services to the City under this Agreement a "living wage," as defined in Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3); to post a notice approved by the City of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this Agreement are working; to maintain records of compliance; if requested by the City, to provide documentation to verify compliance; to take no action that would reduce the

compensation, wages, fringe benefits, or leave available to any employee or person contracted for employment in order to pay the living wage required by Section 1:815; and otherwise to comply with the requirements of Chapter 23.

## **8. REPRESENTATIONS AND WARRANTIES BY CONTRACTOR**

- A. Contractor warrants that the quality of Services shall conform to the level of quality performed by persons regularly rendering this type of service.
- B. Contractor warrants that it has all the skills, experience, and professional and other licenses necessary to perform the Services.
- C. Contractor warrants that it has available, or will engage at its own expense, sufficient trained employees to provide the Services.
- D. Contractor warrants that it has no personal or financial interest in this Agreement other than the fee it is to receive under this Agreement. Contractor certifies that it will not acquire any such interest, direct or indirect, which would conflict in any manner with the performance of the Services. Contractor certifies that it does not and will not employ or engage any person with a personal or financial interest in this Agreement.
- E. Contractor warrants that it is not, and shall not become overdue or in default to the City for any contract, debt, or any other obligation to the City, including real and personal property taxes. Further Contractor agrees that the City shall have the right to set off any such debt against compensation awarded for Services under this Agreement.
- F. Contractor warrants that its bid or proposal for services under this Agreement was made in good faith, that it arrived at the costs of its proposal independently, without consultation, communication, or agreement for the purpose of restricting competition as to any matter relating to such costs with any competitor for these services; and no attempt has been made or will be made by Contractor to induce any other person or entity to submit or not to submit a bid or proposal for the purpose of restricting competition.
- G. The person signing this Agreement on behalf of Contractor represents and warrants that they have express authority to sign this Agreement for Contractor and agrees to hold the City harmless for any costs or consequences of the absence of actual authority to sign.
- H. The obligations, representations, and warranties of this section 8 shall survive the expiration or termination of this Agreement.

## **9. OBLIGATIONS OF THE CITY**

- A. The City shall give Contractor access to City properties and project areas as required to perform the Services.
- B. The City shall notify Contractor of any defect in the Services of which the Contract Administrator has actual notice.

## **10. ASSIGNMENT**

- A. Contractor shall not subcontract or assign any portion of any right or obligation under this Agreement without prior written consent from the City. Notwithstanding any consent by the City to any assignment, Contractor shall at all times remain bound to all warranties, certifications, indemnifications, promises, and performances required of Contractor under the Agreement unless specifically released from the requirement in writing by the City.
- B. Contractor shall retain the right to pledge payments due and payable under this Agreement to third parties.

## **11. TERMINATION OF AGREEMENT**

- A. If either party is in breach of this Agreement for a period of 15 days following receipt of notice from the non-breaching party with respect to the breach, the non-breaching party may pursue any remedies available against the breaching party under applicable law, including the right to terminate this Agreement without further notice. The waiver of any breach by any party to this Agreement shall not waive any subsequent breach by any party.
- B. The City may terminate this Agreement, on at least 30 days' advance notice, for any reason, including convenience, without incurring any penalty, expense, or liability to Contractor, except the obligation to pay for Services actually performed under the Agreement before the termination date.
- C. Contractor acknowledges that if this Agreement extends for several fiscal years, continuation of this Agreement is subject to appropriation of funds through the City budget process. If funds are not appropriated or otherwise made available, the City shall have the right to terminate this Agreement without penalty at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The Contract Administrator shall give Contractor written notice of such non-appropriation within 30 days after the Contract Administrator has received notice of such non-appropriation.
- D. The expiration or termination of this Agreement shall not release either party from any obligation or liability to the other party that has accrued at the time of expiration or termination, including a payment obligation that has already accrued and Contractor's obligation to deliver all Deliverables due as of the date of termination of the Agreement.

## **12. REMEDIES**

- A. This Agreement does not, and is not intended to, impair, divest, delegate, or contravene any constitutional, statutory, or other legal right, privilege, power, obligation, duty, or immunity of the parties.
- B. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise



of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the parties, or otherwise.

- C. Absent a written waiver, no act, failure, or delay by a party to pursue or enforce any right or remedy under this Agreement shall constitute a waiver of that right with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either party shall subsequently affect the waiving party's right to require strict performance of this Agreement.

### **13. NOTICE**

All notices and submissions required under this Agreement shall be delivered to the respective party in the manner described herein to the address stated below or such other address as either party may designate by prior written notice to the other. Notices given under this Agreement shall be in writing and shall be personally delivered, sent by next day express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (1) the date of actual receipt; (2) the next business day when notice is sent next day express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.

If Notice is sent to Contractor:

[TBD]  
ATTN: [TBD]  
[TBD]  
[TBD], [TBD] [TBD]

If Notice is sent to the City:

City of Ann Arbor  
ATTN: [TBD]  
301 E. Huron St.  
Ann Arbor, Michigan 48104

With a copy to: The City of Ann Arbor  
ATTN: Office of the City Attorney  
301 East Huron Street, 3<sup>rd</sup> Floor  
Ann Arbor, Michigan 48104

### **14. CHOICE OF LAW AND FORUM**

This Agreement will be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity and construction, excepting the principles of conflicts of law. The parties submit to the jurisdiction and venue of the Circuit Court for Washtenaw County, State of Michigan, or, if original jurisdiction can be established, the United States District Court for the Eastern District of Michigan, Southern Division, with respect to any action arising, directly or indirectly, out of this Agreement or the performance or breach of this Agreement. The parties stipulate that the venues referenced in this Agreement are convenient

and waive any claim of non-convenience.

## **15. OWNERSHIP OF DOCUMENTS**

Upon completion or termination of this Agreement, all Deliverables prepared by or obtained by Contractor as provided under the terms of this Agreement shall be delivered to and become the property of the City. Original basic survey notes, sketches, charts, drawings, partially completed drawings, computations, quantities, and other data shall remain in the possession of Contractor as instruments of service unless specifically incorporated in a Deliverable, but shall be made available, upon request, to the City without restriction or limitation on their use. The City acknowledges that the documents are prepared only for the Services. Prior to completion of the Services the City shall have a recognized proprietary interest in the work product of Contractor.

## **16. CONFLICTS OF INTEREST OR REPRESENTATION**

Contractor certifies it has no financial interest in the Services to be provided under this Agreement other than the compensation specified herein. Contractor further certifies that it presently has no personal or financial interest, and shall not acquire any such interest, direct or indirect, which would conflict in any manner with its performance of the Services under this Agreement.

Contractor agrees to advise the City if Contractor has been or is retained to handle any matter in which its representation is adverse to the City and to obtain the City's consent therefor. The City's prospective consent to Contractor's representation of a client in matters adverse to the City, as identified above, will not apply in any instance where, as the result of Contractor's representation, Contractor has obtained sensitive, proprietary, or otherwise confidential information of a non-public nature that, if known to another client of Contractor, could be used in any such other matter by the other client to the material disadvantage of the City. Each matter will be reviewed on a case by case basis.

## **17. SEVERABILITY OF PROVISIONS**

Whenever possible, each provision of this Agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this Agreement or the application of any provision to any party or circumstance is prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this Agreement or the application of the provision to other parties and circumstances.

## **18. EXTENT OF AGREEMENT**

This Agreement, together with all Exhibits constitutes the entire understanding between the City and Contractor with respect to the subject matter of the Agreement and it supersedes, unless otherwise incorporated by reference herein, all prior representations, negotiations, agreements, or understandings, whether written or oral. Neither party has relied on any prior representations in entering into this Agreement. No terms or conditions of either party's invoice, purchase order, or other administrative document shall modify the terms and conditions of this Agreement, regardless of the other party's failure to object to such terms or conditions. This Agreement shall be binding on and shall inure to the benefit of the parties to this Agreement and their permitted

successors and permitted assigns and nothing in this Agreement, express or implied, is intended to or shall confer on any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement. This Agreement may only be altered, amended, or modified by written amendment signed by Contractor and the City. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

#### **19. ELECTRONIC TRANSACTION**

The parties agree that signatures on this Agreement may be delivered electronically or by facsimile in lieu of an physical signature and agree to treat electronic or facsimile signatures as binding.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGES FOLLOW]**

SAMPLE

[TBD]

**CITY OF ANN ARBOR**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Milton Dohoney Jr.

Title: \_\_\_\_\_

Title: City Administrator

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

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

**Approved as to substance:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

**Approved as to form:**

By: \_\_\_\_\_

Name: Atleen Kaur

Title: City Attorney

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



**EXHIBIT A**  
**Scope of Services**

**EXHIBIT B**  
**Compensation**