

**RESOLUTION NO. 2025-02
OF THE FRONT RANGE PASSENGER RAIL DISTRICT
AUTHORIZING THE TRANSFER OF GRANT FUNDS TO
THE CITY OF TRINIDAD**

WHEREAS, pursuant to Section 32-22-101, *et. seq.*, C.R.S. (the “Act”), the Front Range Passenger Rail District (the “District”) was established as a body politic and corporate and a political subdivision of the state to research, develop, construct, operate, and maintain an interconnected passenger rail system within the front range that is competitive in terms of travel time for comparable trips with other modes of surface transportation; and

WHEREAS, Section 32-22-105(2)(d), C.R.S. authorizes the Board of Directors of the District (the “Board”) to pass resolutions necessary for the government and management of the affairs of the District and the execution of the District’s powers and duties; and

WHEREAS, Section 32-22-110, C.R.S. designated the District as the successor to the contractual rights and obligations of the Southwest Chief and Front Range Passenger Rail Commission (the “Commission”) as the Commission existed before its authorizing statutes were repealed by Colorado Senate Bill 21-238; and

WHEREAS, in March 2021, the State of Colorado received federal funds through the American Rescue Plan Act, Pub. L. No. 117-2 (2021) (the “ARPA Funds”); and

WHEREAS, in June 2021, Colorado enacted Senate Bill 21-260 which directed the State Treasurer to transfer \$12,000,000 in ARPA Funds to the Commission for the purpose of providing additional funding for the Southwest Chief La Junta Route Restoration Program (the “Program”); and

WHEREAS, the United States Department of Transportation (“USDOT”) and the City of Trinidad (the “City”) entered into a Grant Agreement for the City to receive a Rebuilding American Infrastructure with Sustainability and Equity (“RAISE”) grant for the Program, attached as **Exhibit A**, and as part the Grant Agreement, the Commission pledged to provide the City with the \$12,000,000 in ARPA Funds, as well as \$20,000 in other Commission funds as matching funds to support the Program; and

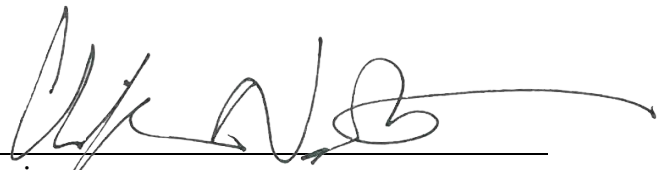
WHEREAS, the City has issued a notice to proceed to BNSF to commence the Program; and

WHEREAS, the City has requested the District disburse the \$12,000,000 in ARPA Funds by the Funding Agreement attached as **Exhibit B** and the \$20,000 in matching funds by the Funding Agreement attached as **Exhibit C**; and

WHEREAS, the Board desires to authorize the Interim General Manager to execute the Funding Agreements with the City and disburse the corresponding funds to fulfill the outstanding obligations of the Commission.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Front Range Passenger Rail District that the Board hereby authorizes the Interim General Manager of the District to execute the Funding Agreement for \$12,000,000, attached as **Exhibit B**, and the Funding Agreement for \$20,000, attached as **Exhibit C**, and disburse or cause to be disbursed the corresponding funds to the City for the Program.

APPROVED this 23rd day of May 2025.


Chair

ATTEST:


Secretary

Front Range Passenger Rail District
Resolution No. 2025-02
Exhibit A

EXHIBIT A

**Grant Agreement between the United States Department of Transportation and the City of
Trinidad**

[See Attached]



U.S Department of Transportation

Federal Railroad Administration

Grant Agreement

1. RECIPIENT NAME AND ADDRESS CITY OF TRINIDAD 135 N Animas St Trinidad, CO 81082-2601		2. AGREEMENT NUMBER:		3. AMENDMENT NO.	
4. PROJECT PERFORMANCE PERIOD:		FROM		TO	
5. FEDERAL FUNDING PERIOD:		FROM		TO	
1A. IRS/VENDOR NO.		6. PRE-AWARD AUTHORITY? No 6A. PRE-AWARD DATE (MM/DD/YYYY) N/A			
1B. UEL MAK2BWEY9KM1 1C. DUNS.		7. ACTION New			
8. CFDA#:		TITLE		FEDERAL NON-FEDERAL TOTAL	
9. PROJECT TITLE The Southwest Chief La Junta Restoration Program		10. PREVIOUS AGREEMENTS		0.00 0.00 0.00	
		11. THIS AGREEMENT		2,790,150.00 8,622,000.00 11,412,150.00	
		12. TOTAL AGREEMENT		2,790,150.00 8,622,000.00 11,412,150.00	
12A. OTHER FEDERAL FUNDING		12,000,000.00			
13. INCORPORATED ATTACHMENTS THIS AGREEMENT INCLUDES THE FOLLOWING ATTACHMENTS, INCORPORATED HEREIN AND MADE A PART HEREOF: Grant Agreement, Attachment 1A; Grant Agreement, Attachment 1A; and Exhibits, Attachment 2					
14. STATUTORY AUTHORITY FOR GRANT/ COOPERATIVE AGREEMENT Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260, Dec. 27, 2020)					
15. REMARKS					
GRANTEE ACCEPTANCE			AGENCY APPROVAL		
16. NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Ms. Cheryl A Navarette Finance Director			18. NAME AND TITLE OF AUTHORIZED FRA OFFICIAL		
17. SIGNATURE OF AUTHORIZED GRANTEE OFFICIAL Electronically Signed		17A. DATE 08/07/2024	19. SIGNATURE OF AUTHORIZED FRA OFFICIAL		19A. DATE
AGENCY USE ONLY					
20. OBJECT CLASS CODE: 41010			21. ORGANIZATION CODE: 9000000000		
22. ACCOUNTING CLASSIFICATION CODES DOCUMENT NUMBER FUND BY BPAC AMOUNT 69A36524420050RASCO					

AWARD ATTACHMENTS

CITY OF TRINIDAD

69A36524420050RASCO

1. Grant Agreement, Attachment 1A
2. General Terms and Conditions, Attachment 1B
3. Exhibits, Attachment 2

U.S. DEPARTMENT OF TRANSPORTATION
GRANT AGREEMENT UNDER THE
FISCAL YEAR 2021 RAISE GRANT PROGRAM

ATTACHMENT 1A

This agreement is between the United States Department of Transportation (the “USDOT”) and The City of Trinidad, Colorado (the “**Recipient**”).

This agreement reflects the selection of the Recipient to receive a RAISE Grant for The Southwest Chief La Junta Route Restoration Program.

The parties therefore agree to the following:

ARTICLE 1
GENERAL TERMS AND CONDITIONS

1.1 General Terms and Conditions.

- (a) In this agreement, “**General Terms and Conditions**” means the content of the document titled “General Terms and Conditions Under The Fiscal Year 2021 Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant Program: FRA Projects,” dated October 12, 2022, which is available at <https://www.transportation.gov/policy-initiatives/raise/raise-grant-agreements>. Articles 8–31 are in the General Terms and Conditions. The General Terms and Conditions are part of this agreement.
- (b) The Recipient states that it has knowledge of the General Terms and Conditions.
- (c) The Recipient acknowledges that the General Terms and Conditions impose obligations on the Recipient and that the Recipient’s non-compliance with the General Terms and Conditions may result in remedial action, terminating of the RAISE Grant, disallowing costs incurred for the Project, requiring the Recipient to refund to the USDOT the RAISE Grant, and reporting the non-compliance in the Federal-government-wide integrity and performance system.

ARTICLE 2 APPLICATION, PROJECT, AND AWARD

2.1 Application.

Application Title: The Southwest Chief La Junta Route Restoration Program

Application Date: July 12, 2021

2.2 Award Amount.

RAISE Grant Amount: \$2,790,150

2.3 Award Dates.

Estimated Closeout Date: May 30th, 2029

See ¶ 4 (Project Performance Period) and ¶ 5 (Federal Funding Period) of the agreement cover sheet and sections 11.3–11.4.

2.4 Urban or Rural Designation.

Urban-Rural Designation: Rural

2.5 Capital or Planning Designation.

Capital-Planning Designation: Capital

2.6 Federal Award Identification Number. The USDOT identifies this award with the following federal award identification number:

See ¶ 2 of the agreement cover sheet.

ARTICLE 3 SUMMARY PROJECT INFORMATION

3.1 Summary of Project's Statement of Work.

The Project replaces 29 miles of bolted rail with new continuously welded rail (CWR 136lbs) and surfaces 4.8 miles of embedded CWR to rehabilitate 33.8 miles of right-of-way and also replaces approximately twenty grade crossings with modern panelized crossings and installs approximately twelve new turnouts. The entire section is then surfaced to FRA Class 4 condition at 80 MPH passenger speeds.

3.2 Project's Estimated Schedule.

Milestone	Schedule Date
Planned Construction Start Date:	August 1, 2024
Planned Construction Substantial Completion Date:	June 30, 2028
Planned Revenue Service Date:	December 30, 2028

3.3 Project's Estimated Budget.

Eligible Project Costs	
RAISE Grant Amount:	\$2,790,150
Other Federal Funds:	\$12,000,000
State Funds:	\$2,000,000
Local Funds:	\$122,000
Other Funds:	\$6,500,000
Total Eligible Project Cost:	\$23,412,150

In ¶ 11 of the agreement cover sheet, the amount listed in the “Federal” column is the “RAISE Grant Amount” in this section 3.3; the amount listed in the “Non-Federal” column is the sum of the “Other Federal Funds,” and “Non-Federal Funds” in this section 3.3.

ARTICLE 4 CRITICAL MILESTONE DEADLINES

4.1 Critical Milestone Deadlines.

Milestone	Deadline Date
Detailed Work Plan, Schedule, and Budget	60 days after grant obligation
Project Management Plan	60 days after grant obligation
Final Performance Report	Within 120 days of grant closeout period

ARTICLE 5 PARTY INFORMATION

5.1 Recipient's Unique Entity Identifier.

Recipient's Unique Entity Identifier: MAK2BWEY9KM1

5.2 Recipient Contact(s).

Name: Audra Garrett

Title: City Clerk (Interim City Manager)

Agency: City of Trinidad, CO

Mailing Address: 135 N. Animas Street, Trinidad, CO 81082

Phone Number: (719) 846-9843, ext. 135

Email Address: audra.garrett@trinidad.co.gov

5.3 Recipient Key Personnel.

None. The parties have not identified any individuals as key personnel for this award.

5.4 USDOT Project Contact(s).

Name: Amanda Olejarski

Title: Project Manager

Agency: Federal Rail Administration

Mailing Address: 1200 New Jersey Ave, SE Washington, DC 20590

Phone Number: (202) 940-8144

Email Address: amanda.olejarski@dot.gov

ARTICLE 6 USDOT ADMINISTRATIVE INFORMATION

6.1 Payment System.

USDOT Payment System: DELPHI eInvoicing

6.2 Office for Subaward and Contract Authorization.

USDOT Office for Subaward and Contract Authorization: None

**ARTICLE 7
SPECIAL GRANT TERMS**

There are no special terms for this award.

ARTICLES 8–31
are contained in Attachment 1B, as further described in article 1.

ATTACHMENT 2
STATEMENT OF WORK
FY2021 RAISE GRANT

The City of Trinidad, Colorado
The Southwest Chief La Junta Route Restoration Program

I. AUTHORITY

Authorization	See funding authority.
Funding Authority/Appropriation	Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260, Dec. 27, 2020)
Notice of Funding Opportunity	Notice of Funding Opportunity for the Department of Transportation's National Infrastructure Investments (i.e., the Rebuilding American Infrastructure With Sustainability and Equity (RAISE) Grant Program) Under the Consolidated Appropriations Act, 2021, 86 Fed. Reg. 21,794 (Apr. 23, 2021)

This document is Attachment 2 of an agreement between the USDOT and the Recipient. As stated in section 30.3 of Attachment 1, if there is a conflict between Attachment 1 and this Attachment 2, Attachment 1 governs.

II. BACKGROUND

This agreement between the USDOT and the City of Trinidad, Colorado (Recipient) provides \$2,790,150, which, when combined with \$8,622,000 in matching funds and \$12,000,000 in Other Federal Funds received by the Recipient in the form of Coronavirus State and Local Fiscal Recovery Funds (SLFRF), will fund the Project as defined in Attachment 1 of this agreement.

The City of Trinidad, Colorado (Recipient) will receive funding through the 2021 RAISE program for The Southwest Chief La Junta Route Restoration Program (Project). The Southwest Chief La Junta Route Restoration Program is the final component of a larger project to rehabilitate the track infrastructure of the BNSF Railway (BNSF) La Junta Subdivision. The westbound and eastbound Amtrak Southwest Chief travel over the 409 miles of the La Junta Subdivision between Ellinor, KS and Las Animas Junction, CO daily. The total rehabilitation project replaces 146.3 miles of bolted rail with new continuous welded rail (CWR) and reconditions 169.3 miles of existing CWR for a total of 315.6 miles. The overall rehabilitation area is between Hutchinson, KS (MP 218) and Las Animas, CO (MP 534).

The La Junta Subdivision has been the recipient of three separate TIGER grant awards starting in 2014. The TIGER 6, 7, and 9 projects have completed 144.8 miles of improvements with the most recent occurring in the fourth quarter of 2020. FRA also awarded a 2018 Consolidated Rail Infrastructure Safety Improvements (CRISI) Positive Train Control (PTC) grant to install and implement PTC along 179 miles through the La Junta subdivision. Upon completion of the

Project, a critical rail transportation asset connecting the north-south trunk lines of the mountain states with midwestern arteries will be established and preserved. This corridor will continue to serve the nation by connecting the region to the larger transportation network.

This agreement between the USDOT and the Recipient provides \$2,790,150, which, when combined with \$8,622,000 in matching funds and \$12,000,000 in Other Federal Funds, will fund the Project as defined in Attachment 1 of this agreement.

All necessary planning, preliminary engineering (PE) and National Environmental Policy Act (NEPA) requirements have been completed prior to obligation. A Categorical Exclusion for this Project was approved by FRA on April 6, 2023.

III. OBJECTIVE

This Project replaces the last remaining 29 miles of bolted rail with new CWR and surfaces 4.8 miles of embedded CWR to rehabilitate the final 33.8 miles of right-of-way and also replaces twenty grade crossings with modern panelized crossings and installs twelve new turnouts. The entire section is then surfaced to FRA Class 4 condition at 80 MPH passenger speeds. As part of the Project commitment, BNSF agrees to maintain the refurbished CWR at the Class 4 condition for twenty years.

IV. PROJECT LOCATION

The Project work areas are in western Kansas and southeastern Colorado. There are two specific locations in Colorado and Kansas, which each have specific work components. In Colorado, between mileposts 471 and 492, the Project will consist of two (2) CWR sections totaling 197,600 feet, eleven (11) crossing with panel replacement, and seven (7) turnouts. In Kansas, between mileposts 364 and 376, the Project will consist of three (3) CWR sections totaling 108,960 feet, nine (9) crossings with panel replacement, and five (5) turnouts.

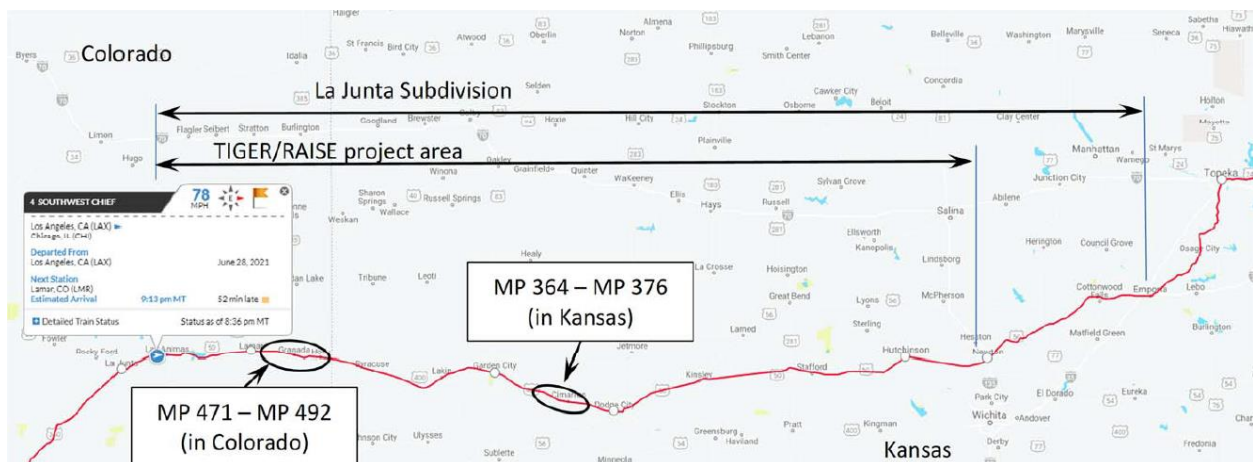


Figure 1: Project Work Locations

V. DESCRIPTION OF WORK

The Recipient will complete the following three tasks:

Task 1: Detailed Project Work Plan, Budget, and Schedule

The Recipient will prepare a Detailed Project Work Plan, Budget, and Schedule for the following tasks, which may result in amendments to this Agreement. The Detailed Project Budget will be consistent with the Approved Project Budget but will provide a greater level of detail. The Detailed Project Work Plan will describe, in detail, the activities and steps necessary to complete the tasks outlined in this Statement of Work, including the list of DOT Crossing Numbers for the 20 locations where panels will be replaced. The Detailed Project Work Plan will also include information about the project management approach (including team organization, team decision-making, roles and responsibilities and interaction with FRA), as well as address quality assurance and quality control procedures. In addition, the Detailed Project Work Plan will include the Project Schedule (with Recipient and agency review durations), a detailed Project Budget, and the environmental class of action. Similarly, agreements governing the construction, operation and maintenance of the Project should also be included. The Detailed Project Work Plan, Budget, and Schedule will be reviewed and approved by the FRA.

The Recipient acknowledges that work on subsequent tasks will not commence until the Detailed Project Work Plan, Budget (including estimated costs for Alternate Task, if provided), and Schedule has been completed, submitted to FRA, and the Recipient has received approval in writing from FRA, unless such work is permitted by pre-award authority in Attachment 6 of this Agreement. The FRA will not reimburse the Recipient for costs incurred in contravention of this requirement.

Task 1 Deliverables:

- Detailed Project Work Plan, Budget, and Schedule
- Project Agreements (if applicable)

Task 2 : Construction

FRA accepted Final Design Plans and Cost Estimate on January 25, 2024. All construction will be according to FRA accepted design plans. Updated construction cost estimate will be provided to FRA Engineering just before issuing NTP for construction.

The Recipient may not perform this task unless Tasks 1 under this Agreement is complete, and Recipient receives written approval from FRA to proceed with this Task.

The Recipient will complete construction of the Project with three tasks:

- Subtask 4.1: At-grade crossing rehabilitation – La Junta Subdivision. Installation of 20 at-grade crossing panels along the project alignment
- Subtask 4.2: Turnout replacement – La Junta Subdivision. Replacement of 12 panelized, mechanized turnouts along the project alignment
- Subtask 4.3: Rail replacement – La Junta Subdivision. Replacement of 306,560 linear feet of bolted rail with new 136/141-lb. CWR

If there are significant changes from the accepted FD, the Recipient will notify FRA in writing, prior to commencing construction activities.

Task 2 Deliverables:

- Copies of all local, state, and Federal permits required for construction
- Any construction of maintenance agreement with local municipalities for installation and maintenance of pavement marking and signage at the grade crossings
- USDOT Crossing Inventory Forms (within 3 months of the change in crossing characteristics)
 - ENS sign installed at each crossing approach
- Field verification of MUTCD compliance, along with acceptance testing of the railroad crossing system – in coordination with FRA’s District signal inspector officials Updated Construction Cost Estimate

Task 3: Final Performance Report

The Recipient will submit to FRA for acceptance a Final Performance Report (FRA Form 33). This report must be submitted as required by section 14.2 of Attachment 1 and should describe the cumulative activities of the project, including a complete description of the Recipient’s achievements with respect to the project objectives and milestones.

Task 3 Deliverables:

- Final Performance Report (FRA Form 33)

VI. PROJECT COORDINATION

The Recipient shall perform all tasks required for the Project through a coordinated process, which will involve affected railroad owners, operators, and funding partners, including:

- BNSF
- Kansas DOT
- Colorado DOT
- Amtrak
- American Association of Private Car Owners
- Colorado Rail Passenger Association
- Southwest Chief & Front Range Passenger Rail Commission
- Local Units of Government in Kansas and Colorado
- FRA

VII. PROJECT MANAGEMENT

The Recipient is responsible for facilitating the coordination of all activities necessary for implementation of the Project. Upon award of the Project, the Recipient will monitor and evaluate the Project's progress through regular meetings scheduled throughout the period of performance. The Recipient will:

- Participate in a project kickoff meeting with FRA
- Complete necessary steps to hire a qualified consultant/contractor to perform required Project work, as necessary
- Hold regularly scheduled Project meetings with FRA
- Inspect and approve work as it is completed
- Review and approve invoices as appropriate for completed work
- Perform Project close-out audit to ensure contractual compliance and issue close-out report
- Submit to FRA all required Project deliverables and documentation on-time and according to schedule, including periodic receipts and invoices
- Comply with all FRA Project reporting requirements, including, but not limited to:
 - a. Status of project by task breakdown and percent complete
 - b. Changes and reason for changes in and updated versions of Detailed Project Work Plan, Budget, and Schedule
 - c. Description of unanticipated problems and any resolution since the immediately preceding progress report
 - d. Summary of work scheduled for the next progress period

- Read and understand the Terms and Conditions of this Agreement
- Notify FRA of changes to this Agreement that require written approval or modification to the Agreement

**ATTACHMENT 3
ESTIMATED PROJECT BUDGET**

FY2021 RAISE GRANT

The City of Trinidad, Colorado
The Southwest Chief La Junta Route Restoration Program

I. APPROVED PROJECT BUDGET

The total estimated cost of the Project is \$23,412,150 for which the grant under this agreement will contribute up to \$2,790,150. The Recipient's non-Federal Contribution is comprised of cash contributions in the amount of \$8,622,000. The Recipient has also contributed \$12,000,000 of Other Federal Funds, which come from the American Rescue Plan Act (ARPA) through Coronavirus SLFRF funding. Consistent with sections 12.4 and 20.1 of Attachment 1, any additional expense required beyond that provided in this Agreement to complete the Project will be borne by the Recipient.

Revisions to this Attachment 3 are void unless made in compliance with Attachment 1.

Project Budget by Task

Task #	Task Name	RAISE Funds	Other Federal Funds	Non-Federal Funds	Total Cost
1	Detailed Project Work Plan, Budget, and Schedule	\$0	\$0	\$0	\$0
2	Construction	\$2,790,150	\$12,000,000	\$8,622,000	\$23,412,150
3	Final Performance Report	\$0	\$0	\$0	\$0
	Total	\$2,790,150	\$12,000,000	\$8,622,000	\$23,412,150

Consistent with section 20.8 of Attachment 1, the Recipient will document expenditures by task, and by Federal and Non-Federal Contributions, when seeking reimbursement from FRA.

Project Budget by Source

Funding Source	Project Contribution Amount	Percentage of Total Project Cost
RAISE Funds	\$2,790,150	11.92%
Other Federal Funds	\$12,000,000	51.26%
Non-Federal Funds	\$8,622,000	36.82%
<i>CDOT</i>	<i>\$1,000,000</i>	<i>4.27%</i>
<i>KDOT</i>	<i>\$1,000,000</i>	<i>4.27%</i>
<i>BNSF Funds</i>	<i>\$5,000,000</i>	<i>21.36%</i>
<i>Amtrak</i>	<i>\$1,500,000</i>	<i>6.41%</i>
<i>Local Funds</i>	<i>\$102,000</i>	<i>0.44%</i>
<i>SW Chief & Front Range Passenger Rail Commission Funds</i>	<i>\$20,000</i>	<i>0.09%</i>
Total Project Cost	\$23,412,150	100%

ATTACHMENT 4

PERFORMANCE MEASUREMENT INFORMATION

Study Area: The Southwest Chief La Junta Route Restoration Program rehabilitates the track infrastructure of the BNSF Railway La Junta Subdivision. The westbound and eastbound Amtrak Southwest Chief travel over the 409 miles of the La Junta Subdivision between Ellinor, KS and Las Animas Junction, CO daily. The total rehabilitation project replaces 146.3 miles of bolted rail with new CWR and reconditions 169.3 miles of existing CWR for a total of 315.6 miles. The overall rehabilitation area is between Hutchinson, KS (MP 218) and Las Animas, CO (MP 534).

Baseline Measurement Date: Before the start-of-construction, planned for June 1, 2023.

Baseline Report Date: Within two months of recording Baseline Measurements, the Recipient shall submit to the USDOT a Baseline Measurement Report.

Post-construction Performance Measurement: The Recipient shall collect data for the performance measures below on at least three separate occasions: (i) once during the four consecutive calendar quarters that begin after the Project substantial completion date; (ii) once during the fourth calendar quarter after the first collection; and (iii) once during the eighth calendar quarter after the first collection.

Post-construction Performance Report Date: Not later than January 31 of each year that follows a calendar year during which Post-construction Performance Measurement data was collected, the Recipient shall submit to the USDOT a Post-construction Performance Measurement Report containing the data collected in the previous calendar year and stating the dates when the data was collected.

Table 1: Performance Measure Table

Rail Measures	Unit Measured	Measurement Frequency	RAISE Project Objectives	Definition
Slow Order Miles	Miles	Annual	State of Good Repair, Safety	The number of miles per year within the project area that have temporary speed restrictions (“slow orders”) imposed due to track condition. This is an indicator of the overall condition of track. This measure can be used for projects to rehabilitate sections of a rail line since the rehabilitation should eliminate, or at least reduce the slow orders upon project completion.
Travel Time	Time/Trip	Annual	Economic Competitiveness, Quality of Life	Point-to-point travel times between Lamar, CO and Dodge City, KS station stops within the project area.

				For train 4, run time is calculated as the difference between arrival date/time at Dodge City, KS and the departure date/time from Lamar, CO. For train 3, run time is calculated as the difference between arrival date/time at Lamar, CO and the departure date/time from Dodge City, KS. This measure demonstrates how track improvements and other upgrades improve operations on a rail line. It also helps make sure the railroad is maintaining the line after project completion.

ATTACHMENT 5 CHANGES FROM APPLICATION

While the format and presentation of the information in Attachments 1–3 at execution of this agreement may vary from the versions proposed in the application, the table below identifies changes proposed by Recipient between the application and this agreement and discussed with the USDOT.

Differences between Recipient’s Application and this Agreement

	Application Version	Agreement Version	Explanation for Change
Attachment 1 section 3.2 Estimated Project Schedule	The application planned for the grant agreement to be obligated in December 2022 with construction ending in July 2023.	The grant agreement is not expected to be obligated until March 2024 and construction is not planned to be complete until June 2028.	The approved grant agreement templates for the RAISE program took additional time to develop, delaying the obligation date. NEPA clearance also had to be complete before the grant could be obligated. The overall project schedule was extended to account for the time it took to obligate the grant and to realistically complete the scope of work.
Attachment 2 Statement of Work	The application included the construction of 15 turnout locations in the scope of work.	The current grant agreement details the construction of only 12 turnout locations, removing three (3) turnout locations to meet the re-estimated budget.	Due to an increase in material and labor cost from inflation during the period since the grant amount, \$23,412,150, was approved, the cost increased to \$25,640,599 and has now been re-estimated and reduced to \$23,335,148. To achieve this, the original scope of work had to be reduced by removing three (3) turnout locations (MP 371.796, MP 478.031, MP 479.331) and removal of local labor cost associated with the rail.

Attachment 2 Statement of Work	The application included Final Design as part of the scope of work.	The current grant agreement does not include Final Design as part of the scope of work.	Due to the overall project schedule moving, including grant obligation dates, Final Design was completed outside of this grant.
Attachment 3 Estimated Project Budget	Application identified matching funds at \$20,622,000.	Agreement identifies \$12,000,000 as Other Federal Funds and \$8,622,000 as Non-Federal Funds.	

Upon execution of this agreement, the Recipient agrees to changes, as reflected Attachments 1–3. In the event of any amendments to Attachments 1–3, this Attachment 5 will not be updated.

ATTACHMENT 6
APPROVED PRE-AWARD COSTS

None. The USDOT has not approved under this award any pre-award costs under 2 C.F.R. 200.458. Because unapproved costs incurred before the date of this agreement are not allowable costs under this award, the USDOT will neither reimburse those costs under this award nor consider them as a non-Federal cost sharing contribution to this award. Costs incurred before the date of this agreement are allowable costs under this award only if approved in writing by USDOT before being included in the project costs and documented in this Attachment 6. See section 20.3(b) of Attachment 1.

ATTACHMENT 7

CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE IMPACTS

1. Consideration of Climate Change and Environmental Justice Impacts.

The Recipient states that rows marked with “X” in the following table are accurate:

	The Project directly supports a Local/Regional/State Climate Action Plan that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
	The Project directly supports a Local/Regional/State Equitable Development Plan that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
	The Project directly supports a Local/Regional/State Energy Baseline Study that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
X	The Recipient or a project partner used environmental justice tools, such as the EJSCREEN, to minimize adverse impacts of the Project on environmental justice communities. <i>(Identify the tool(s) in the supporting narrative below.)</i>
	The Project supports a modal shift in freight or passenger movement to reduce emissions or reduce induced travel demand. <i>(Describe that shift in the supporting narrative below.)</i>
	The Project utilizes demand management strategies to reduce congestion, induced travel demand, and greenhouse gas emissions. <i>(Describe those strategies in the supporting narrative below.)</i>
	The Project incorporates electrification infrastructure, zero-emission vehicle infrastructure, or both. <i>(Describe the incorporated infrastructure in the supporting narrative below.)</i>
	The Project supports the installation of electric vehicle charging stations. <i>(Describe that support in the supporting narrative below.)</i>
	The Project promotes energy efficiency. <i>(Describe how in the supporting narrative below.)</i>
X	The Project serves the renewable energy supply chain. <i>(Describe how in the supporting narrative below.)</i>
X	The Project improves disaster preparedness and resiliency <i>(Describe how in the supporting narrative below.)</i>

x	The Project avoids adverse environmental impacts to air or water quality, wetlands, and endangered species, such as through reduction in Clean Air Act criteria pollutants and greenhouse gases, improved stormwater management, or improved habitat connectivity. <i>(Describe how in the supporting narrative below.)</i>
	The Project repairs existing dilapidated or idle infrastructure that is currently causing environmental harm. <i>(Describe that infrastructure in the supporting narrative below.)</i>
	The Project supports or incorporates the construction of energy- and location-efficient buildings. <i>(Describe how in the supporting narrative below.)</i>
	The Project includes recycling of materials, use of materials known to reduce or reverse carbon emissions, or both. <i>(Describe the materials in the supporting narrative below.)</i>
	The Recipient has taken other actions to consider climate change and environmental justice impacts of the Project, as described in the supporting narrative below.
	The Recipient has not yet taken actions to consider climate change and environmental justice impacts of the Project but, before beginning construction of the Project, will take relevant actions described in Attachment A. <i>(Identify the relevant actions from Attachment A in the supporting narrative below.)</i>
	The Recipient has not taken actions to consider climate change and environmental justice impacts of the Project and will not take those actions under this award.

2. Supporting Narrative.

With respect to environmental justice, an assessment of the eleven environmental justice indexes using the EPA's EJSCREEN tool reveal that the average of residents near the Kansas work area fall between the 25th and 50th percentiles while those in the Colorado portion fall within the 50th and 75th percentiles. (The EPA links a higher percentile to a higher environmental justice index. The index reflects the potential number of low income or minority individuals within a block group.) The highest indicators involve wastewater discharge and lead paint for the Colorado location and hazardous waste and NATA Diesel PM for the Kansas location. The PM 2.5 and the NATA Diesel PM indicators, both addressed by the project, are each around 65% for the Colorado location and 50% for the Kansas location.

With respect to the renewable energy supply chain, the improved right-of-way and reliable rail freight service helped BNSF locate a large transload facility specializing in wind turbines and related equipment outside of Garden City, KS. The central location of the facility to various wind farms in this part of the United States and the location's access to reliable, Class 1 rail service

make it an ideal place to receive large wind power components by rail for distribution to their final destinations.

This project completes the Southwest Chief La Junta Route Restoration Program and finishes the restoration which began in 2016 for the BNSF Railway's La Junta Subdivision in Kansas and Colorado. The project replaces the last remaining 34 miles of unrehabilitated track including 29 miles of bolted rail. It complements the TIGER 6, 7, and 9 projects which progressively restored this corridor to a viable transportation link, improving disaster preparedness and resiliency, specifically for those disasters involving flooding. While the original objective of the overall program was to preserve a critical transportation option to a rural corridor spanning three states and underserved by other modes, the changing environment uncovered this resiliency aspect of the initiative. During the 2019 flooding in the nation's Midwest, the rehabilitated La Junta Subdivision gave BNSF the capability to preserve its rail transportation service and not disrupt the commerce of the country. This project eliminates the last remaining sections of bolted rail in this corridor.

The project reduces the introduction of pollutants and greenhouse gases into the atmosphere by reducing delays to trains operating over the remaining bolted rail. Much of this reduction comes from the absence of running several hundred kilowatts of power to the coaches and parasitic loads of the Amtrak trains while they wait for delays to clear. The recent incorporation of the Amtrak Tier 4 Charger locomotives built by Siemens greatly reduces these pollutants. However, even when considering the Tier 4 engines, the project removes approximately a ton of pollutants and 250 tons of CO₂ annually from the atmosphere.

ATTACHMENT 8 RACIAL EQUITY AND BARRIERS TO OPPORTUNITY

1. Efforts to Improve Racial Equity and Reduce Barriers to Opportunity.

The Recipient states that rows marked with “X” in the following table are accurate:

	A racial equity impact analysis has been completed for the Project. <i>(Identify a report on that analysis or, if no report was produced, describe the analysis and its results in the supporting narrative below.)</i>
x	The Recipient or a project partner has adopted an equity and inclusion program/plan or has otherwise instituted equity-focused policies related to project procurement, material sourcing, construction, inspection, hiring, or other activities designed to ensure racial equity in the overall delivery and implementation of the Project. <i>(Identify the relevant programs, plans, or policies in the supporting narrative below.)</i>
	The Project includes physical-barrier-mitigating land bridges, caps, lids, linear parks, and multimodal mobility investments that either redress past barriers to opportunity or that proactively create new connections and opportunities for underserved communities that are underserved by transportation. <i>(Identify the relevant investments in the supporting narrative below.)</i>
	The Project includes new or improved walking, biking, and rolling access for individuals with disabilities, especially access that reverses the disproportional impacts of crashes on people of color and mitigates neighborhood bifurcation. <i>(Identify the new or improved access in the supporting narrative below.)</i>
	The Project includes new or improved freight access to underserved communities to increase access to goods and job opportunities for those underserved communities. <i>(Identify the new or improved access in the supporting narrative below.)</i>
	The Recipient has taken other actions related to the Project to improve racial equity and reduce barriers to opportunity, as described in the supporting narrative below.
	The Recipient has not yet taken actions related to the Project to improve racial equity and reduce barriers to opportunity but, before beginning construction of the project, will take relevant actions described in Attachment A. <i>(Identify the relevant actions from Attachment A in the supporting narrative below.)</i>
	The Recipient has not taken actions related to the Project to improve racial equity and reduce barriers to opportunity and will not take those actions under this award.

2. Supporting Narrative.

BNSF, a project partner, has procurement policies that reflect the BNSF's commitment to addressing racial equity and barriers to opportunity with the Supplier Diversity program. This program states that BNSF is committed to proactively identify, attract, and develop long-term partnerships with minority, woman, and veteran-owned small businesses as well as small, disadvantaged businesses. BNSF believes these suppliers and contractors provide exceptional value in the marketplace and enhance competition and innovation in their respective industries. Furthermore, they reflect the diversity of the company, its customer base, and the communities it serves. The BNSF Supplier Diversity program has three main goals, 1) increase spend in these businesses year over year as a share of overall spend, 2) increase exposure of RFPs to diverse business enterprises, and 3) to enhance supplier reporting on diverse business enterprises with a robust Tier 2 program. To help achieve these goals, BNSF makes focused networking outreach and educational opportunities available to encourage diverse suppliers to learn about the BNSF business, understand its sourcing processes, and to connect them with other bidding suppliers.

U.S. DEPARTMENT OF TRANSPORTATION

**GENERAL TERMS AND CONDITIONS UNDER THE
FISCAL YEAR 2021 REBUILDING AMERICAN INFRASTRUCTURE WITH
SUSTAINABILITY AND EQUITY (RAISE) GRANT PROGRAM:
FRA PROJECTS**

ATTACHMENT 1B

Revision date: October 12, 2022

Table of Contents

Article 8 Purpose.....	6
8.1 Purpose.....	6
Article 9 USDOT Role.....	6
9.1 Division of USDOT Responsibilities.....	6
9.2 USDOT Program Contacts.....	7
Article 10 Recipient Role.....	7
10.1 Statements on the Project.....	7
10.2 Statements on Authority and Capacity.....	7
10.3 USDOT Reliance.....	8
10.4 Project Delivery.....	8
10.5 Rights and Powers Affecting the Project.....	8
10.6 Notification of Changes to Key Personnel.....	8
Article 11 Award Amount, Obligation, and Time Periods.....	9
11.1 Federal Award Amount.....	9
11.2 Federal Obligation.....	9
11.3 Budget Period.....	9
11.4 Period of Performance.....	9
Article 12 Statement of Work, Schedule, and Budget Changes.....	9
12.1 Notification Requirement.....	9
12.2 Statement of Work Changes.....	9
12.3 Schedule Changes.....	9
12.4 Budget Changes.....	10
12.5 USDOT Acceptance of Changes.....	11
Article 13 General Reporting Terms.....	11
13.1 Report Submission.....	11
13.2 Alternative Reporting Methods.....	11
13.3 Paperwork Reduction Act Notice.....	11
Article 14 Progress and Financial Reporting.....	11
14.1 Quarterly Project Progress Reports and Recertifications.....	11
14.2 Final Progress Reports and Financial Information.....	12
Article 15 Performance Reporting.....	12
15.1 Baseline Performance Measurement.....	12
15.2 Post-construction Performance Measurement.....	13
15.3 Project Outcomes Report.....	13
Article 16 Noncompliance and Remedies.....	14
16.1 Noncompliance Determinations.....	14
16.2 Remedies.....	14
16.3 Other Oversight Entities.....	15
Article 17 Agreement Termination.....	15
17.1 USDOT Termination.....	15
17.2 Closeout Termination.....	16
17.3 Post-Termination Adjustments.....	16
17.4 Non-Terminating Events.....	16
17.5 Other Remedies.....	16
Article 18 Monitoring, Financial Management, Controls, and Records.....	17

18.1	Recipient Monitoring and Record Retention.	17
18.2	Financial Records and Audits.	17
18.3	Internal Controls.....	17
18.4	USDOT Record Access.....	18
Article 19	Contracting and Subawards	18
19.1	Minimum Wage Rates.....	18
19.2	Buy America.	18
19.3	Small and Disadvantaged Business Requirements.....	18
19.4	Engineering and Design Services.....	18
19.5	Foreign Market Restrictions.....	18
19.6	Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.	19
19.7	Pass-through Entity Responsibilities.....	19
19.8	Subaward and Contract Authorization.	19
Article 20	Costs, Payments, and Unexpended Funds	19
20.1	Limitation of Federal Award Amount.....	19
20.2	Projects Costs.	19
20.3	Timing of Project Costs.....	19
20.4	Recipient Recovery of Federal Funds.	19
20.5	Unexpended Federal Funds.....	20
20.6	Timing of Payments to the Recipient.	20
20.7	Payment Method.	20
20.8	Information Supporting Expenditures.....	20
20.9	Reimbursement Request Timing and Frequency.	20
Article 21	Liquidation, Adjustments, and Funds Availability.....	21
21.1	Liquidation of Recipient Obligations.....	21
21.2	Funds Cancellation.....	21
Article 22	Agreement Modifications	21
22.1	Bilateral Modifications.....	21
22.2	Unilateral Contract Modifications.....	21
22.3	USDOT Unilateral Modifications.....	21
22.4	Other Modifications.	21
Article 23	Climate Change and Environmental Justice	22
23.1	Climate Change and Environmental Justice.....	22
Article 24	Racial Equity and Barriers to Opportunity	22
24.1	Racial Equity and Barriers to Opportunity.....	22
Article 25	Federal Financial Assistance, Administrative, and National Policy Requirements	22
25.1	Uniform Administrative Requirements for Federal Awards.....	22
25.2	Federal Law and Public Policy Requirements.	22
25.3	Federal Freedom of Information Act.	22
25.4	History of Performance.	22
25.5	Whistleblower Protection.....	23
25.6	External Award Terms and Obligations.....	23
25.7	Incorporated Certifications.....	23
Article 26	Assignment	24
26.1	Assignment Prohibited.....	24

Article 27 Waiver.....	24
27.1 Waivers.....	24
Article 28 Additional Terms and Conditions.....	24
28.1 Effect of Urban or Rural Designation.	24
28.2 Disclaimer of Federal Liability.	24
28.3 Relocation and Real Property Acquisition.	24
28.4 Equipment Disposition.....	25
28.5 Project Maintenance Requirement.	25
Article 29 Mandatory Award Information.....	25
29.1 Information Contained in a Federal Award.....	25
Article 30 Construction and Definitions	26
30.1 Attachments.....	26
30.2 Exhibits.....	26
30.3 Construction.	26
30.4 Integration.	26
30.5 Definitions.....	26
Article 31 Agreement Execution and Effective Date	27
31.1 Counterparts.	27
31.2 Effective Date.....	27

Index of Definitions

Administering Operating Administration	7
Federal Share	10
FRA.....	7
NOFO.....	6
OMB	11
Program Statute.....	26
Project	26
Project Closeout.....	16
RAISE Grant.....	26
Recipient	Project-Specific Recitals
Technical Application.....	26
USDOT	6

GENERAL TERMS AND CONDITIONS

The Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (Dec. 27, 2020) appropriated funds to the United States Department of Transportation (the “USDOT”) under the heading “National Infrastructure Investments.” The funds are available to provide Federal financial assistance for surface transportation infrastructure projects that will have a significant local or regional impact. The USDOT program administering those funds is the RAISE grant program.

The USDOT published a “Notice of Funding Opportunity for the Department of Transportation’s National Infrastructure Investments (i.e., the Rebuilding American Infrastructure With Sustainability and Equity (RAISE) Grant Program) Under the Consolidated Appropriations Act, 2021,” 86 Fed. Reg. 21,794 (April 23, 2021) (the “NOFO”) to solicit applications for Federal financial assistance.

These general terms and conditions are part of a project-specific agreement under the fiscal year 2021 RAISE grant program. The agreement contains a one-page agreement cover sheet and six attachments. Attachment 1A, which contains articles 1–7, and Attachments 2–6 are project-specific. Attachment 1B contains articles 8–31, which are general terms and conditions. The term “Recipient” is defined in Attachment 1A.

ARTICLE 8 PURPOSE

8.1 Purpose. The purpose of this award is to advance capital investments in surface transportation infrastructure that will have a significant local or regional impact. 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 Technical Application, as modified by section 3.3 and Attachment 3.

ARTICLE 9 USDOT ROLE

9.1 Division of USDOT Responsibilities.

- (a) The Office of the Secretary of Transportation is responsible for the USDOT’s overall administration of the RAISE grant program, the approval of this agreement, and any modifications to this agreement under section 22.1.

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

9.2 USDOT Program Contacts.

FRA Office of Infrastructure Investment
Federal Railroad Administration
1200 New Jersey Ave, SE
Washington, DC 20590
(202) 493-6381
FRA-Grants@dot.gov

and

OST RAISE Grants Coordinator
United States Department of Transportation
Office of the Secretary
1200 New Jersey Avenue SE
Room W84-227
Washington, DC 20590
(202) 366-8914
RAISEGrants@dot.gov

ARTICLE 10 RECIPIENT ROLE

10.1 Statements on the Project. The Recipient states that:

- (1) all material statements of fact in the Technical Application were accurate when that application was submitted; and
- (2) Attachment 5 documents all material changes in the information contained in that application.

10.2 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;
- (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 “RAISE Grant Amount” listed in section 3.3 are committed to fund the Project;

- (5) it has sufficient funds available 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 10 and in section 25.7 on behalf of the Recipient.

10.3 USDOT Reliance. The Recipient acknowledges that:

- (1) the USDOT relied on statements of fact in the Technical Application to select the Project to receive this award;
- (2) the USDOT relied on statements of fact in both the Technical 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 Technical 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.

10.4 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 Federal laws, regulations, and policies that are applicable to projects of the Administering Operating Administration.

10.5 Rights and Powers Affecting the Project.

- (a) The Recipient shall not take or permit any action that deprive 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, to 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.

10.6 Notification of Changes to Key Personnel. The Recipient shall notify all USDOT representatives who are identified in section 5.4 in writing within 30 calendar days of any change in key personnel who are identified in section 5.3.

ARTICLE 11

AWARD AMOUNT, OBLIGATION, AND TIME PERIODS

- 11.1 Federal Award Amount** The USDOT hereby awards a RAISE Grant to the Recipient in the amount listed in section 2.2 as the RAISE Grant Amount.
- 11.2 Federal Obligation.** This agreement obligates for the budget period the amount listed in section 2.2 as the RAISE Grant Amount.
- 11.3 Budget Period.** The budget period for this award is listed as the “Federal Funding Period” in ¶ 5 on the agreement cover sheet.
- 11.4 Period of Performance.** The period of performance for this award is listed as the “Project Performance Period” in ¶ 4 on the agreement cover sheet. In this agreement, “period of performance” is used as defined at 2 C.F.R. 200.1.

ARTICLE 12

STATEMENT OF WORK, SCHEDULE, AND BUDGET CHANGES

- 12.1 Notification Requirement.** The Recipient shall notify all USDOT representatives who are identified in section 5.4 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 12.1 is separate from any requirements under this article 12 that the Recipient request modification of this agreement.
- 12.2 Statement of Work Changes.** If the Project’s activities differ from the statement of work that is described in section 3.1 and Attachment 2, then the Recipient shall request a modification of this agreement to update section 3.1 and Attachment 2.
- 12.3 Schedule Changes.** If one or more of the following conditions are satisfied, then the Recipient shall request a modification 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;
 - (2) a schedule change would require the budget period to continue after the end of the budget period defined in section 11.3; or
 - (3) a schedule change would require the period of performance to continue after the end of the period of performance defined in section 11.4.

For other schedule changes, the Recipient shall request a modification of this agreement unless the USDOT has consented, in writing consistent with the Administering Operating Administration's requirements, to the change.

12.4 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 a modification of this agreement to update section 3.3 and Attachment 3 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 12.4(b), the Recipient shall request a modification of this agreement to update section 3.3 and Attachment 3 unless the USDOT has consented, in writing consistent with the Administering Operating Administration's 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 the Administering Operating Administration's requirements, specific additional activities that are within the scope of this award, as defined in sections 8.1 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 12.4(d) or the USDOT does not accept the Recipient's proposal under section 12.4(d), then:
 - (1) in a request under section 12.4(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 modification reduces this award and the USDOT had reimbursed costs exceeding the revised award, the Recipient shall refund to the USDOT the difference between the reimbursed costs and the revised award.

In this agreement, "**Federal Share**" means the sum of the "RAISE 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 12.4(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).

12.5 USDOT Acceptance of Changes. The USDOT may accept or reject modifications requested under this article 12, and in doing so may elect to consider only the interests of the RAISE grant program and the USDOT. The Recipient acknowledges that requesting a modification under this article 12 does not amend, modify, or supplement this agreement unless the USDOT accepts that modification request and the parties modify this agreement under section 22.1.

ARTICLE 13 GENERAL REPORTING TERMS

- 13.1 Report Submission.** The Recipient shall send all reports required by this agreement to all USDOT contacts who are listed in section 5.4 and all USDOT contacts who are listed in section 9.2.
- 13.2 Alternative Reporting Methods.** The Administering Operating Administration 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 Administering Operating Administration.
- 13.3 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. 2105-0563.

ARTICLE 14 PROGRESS AND FINANCIAL REPORTING

14.1 Quarterly Project Progress Reports and Recertifications.

- (a) On or before the 30th day of the first month of each calendar year quarter and until the end of the period of performance, the Recipient shall submit to the USDOT a Quarterly Project Progress Report and Recertification that contains for the previous quarter:
- (1) a complete FRA Form 34¹;

¹ FRA Form 34 is available at <https://railroads.dot.gov/grant-administration/reporting-requirements/fra-reports>

- (2) 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); and
- (3) the certification required under 2 C.F.R. 200.415(a).

If the date of this agreement is in the final month of a calendar year quarter, then the Recipient shall submit the first Quarterly Project Progress Report and Recertification in the second calendar year quarter that begins after the date of this agreement.

- (b) On or before the 30th day of the first month of each calendar year quarter and until the end of the period of performance, the Recipient shall submit to the USDOT through GrantSolutions a Federal Financial Report (SF-425) covering the previous calendar year quarter.

14.2 Final Progress Reports and Financial Information. No later than 120 days after the end of the period of performance, the Recipient shall submit

- (1) a final Quarterly Project Progress Report and Recertification in the format and with the content described in section 14.1(a) for each Quarterly Project Progress Report and Recertification;
- (2) a final SF-425 through GrantSolutions;
- (3) a Final Performance Report FRA Form 33 as provided by FRA²; and
- (4) any other information required under the Administering Operating Administration's award closeout procedures.

ARTICLE 15 PERFORMANCE REPORTING

15.1 Baseline Performance Measurement. If the Capital-Planning Designation in section 2.5 is "Capital," then:

- (1) the Recipient shall collect data for each performance measure that is identified in the Performance Measure Table in Attachment 4, accurate as of the Baseline Measurement Date that is identified in Attachment 4; and
- (2) on or before the Baseline Report Date that is stated in Attachment 4, the Recipient shall submit a Baseline Performance Measurement Report that contains the data collected under this section 15.1 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 4.

² FRA Form 33 is available at <https://railroads.dot.gov/grant-administration/reporting-requirements/fra-reports>

15.2 Post-construction Performance Measurement. If the Capital-Planning Designation in section 2.5 is “Capital,” then

- (1) for each performance measure that is identified in the Performance Measure Table in Attachment 4 with quarterly measurement frequency, for each of 12 consecutive calendar quarters, beginning with the first calendar quarter that begins after the Project substantial completion date, at least once during the quarter, the Recipient shall collect data for that performance measure;
- (2) for each performance measure that is identified in the Performance Measure Table in Attachment 4 with annual measurement frequency, the Recipient shall collect data for that performance measure on at least three separate occasions: (i) once during the four consecutive calendar quarters that begin after the Project substantial completion date; (ii) once during the fourth calendar quarter after the first collection; and (iii) once during the eighth calendar quarter after the first collection; and
- (3) not later than January 31 of each year that follows a calendar year during which data was collected under this section 15.2, the Recipient shall submit to the USDOT a Post-construction Performance Measurement Report containing the data collected under this section 15.2 in the previous calendar year and stating the dates when the data was collected.

If an external factor significantly affects the value of a performance measure collected under this section 15.2, then the Recipient shall identify that external factor in the Post-construction Performance Measurement Report and discuss its influence on the performance measure.

15.3 Project Outcomes Report. If the Capital-Planning Designation in section 2.5 is “Capital,” then the Recipient shall submit to the USDOT, not later than January 31 of the year that follows the final calendar year during which data was collected under section 15.2, a Project Outcomes Report that contains:

- (1) a narrative discussion detailing project successes and the influence of external factors on project expectations;
- (2) all baseline and post-construction performance measurement data that the Recipient reported in the Baseline Performance Measurement Report and the Post-construction Performance Measurement Reports; and
- (3) an *ex post* examination of project effectiveness relative to the baseline data that the Recipient reported in the Baseline Performance Measurement Report.

ARTICLE 16

NONCOMPLIANCE AND REMEDIES

16.1 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 16.1(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 16.1(b); or
 - (2) if the Recipient fails to respond under section 16.1(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.

16.2 Remedies.

- (a) If the USDOT makes a final determination of noncompliance under section 16.1, 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 16.2(a), before making a final determination of noncompliance under section 16.1. If it does so, then the notice provided under section 16.1(d) must also state whether the remedy imposed will continue, be rescinded, or modified.
 - (d) In imposing a remedy under this section 16.2 or making a public interest determination under section 16.2(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 16.2 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).
- 16.3 Other Oversight Entities.** Nothing in this article 16 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 17

AGREEMENT TERMINATION

17.1 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-RAISE Grant contribution 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 a component of the Project 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 a component of the Project 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 meet a milestone listed in section 4.1 by the deadline date listed in that section for that milestone;
 - (5) 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,
 - (6) the USDOT determines that termination of this agreement is in the public interest.
- (b) In terminating this agreement under this section, the USDOT may elect to consider only the interests of the USDOT.
 - (c) This section 17.1 does not limit the USDOT's ability to terminate this agreement as a remedy under section 16.2.
 - (d) The Recipient may request that the USDOT terminate the agreement under this section 17.1.

17.2 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.

17.3 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.

17.4 Non-Terminating Events.

- (a) The end of the budget period described under section 11.3 does not terminate this agreement or the Recipient's obligations under this agreement.
- (b) The end of the period of performance described under section 11.4 does not terminate this agreement or the Recipient's obligations under this agreement.
- (c) The cancellation of funds under section 21.2 does not terminate this agreement or the Recipient's obligations under this agreement.

17.5 Other Remedies. The termination authority under this article 17 supplements and does not limit the USDOT's remedial authority under article 16 or 2 C.F.R. part 200, including 2 C.F.R. 200.339–200.340.

ARTICLE 18
MONITORING, FINANCIAL MANAGEMENT, CONTROLS, AND RECORDS

18.1 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.

18.2 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 18.2(a) in accordance with a financial management system that meets the requirements of 2 C.F.R. 200.301–200.303 and 2 C.F.R. 200 subpart F 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 2021 RAISE 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. 200 subpart F, including “FY 2021” 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 2021” in column c (“Additional Award Identification”).

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

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

ARTICLE 19 CONTRACTING AND SUBAWARDS

- 19.1 Minimum Wage Rates.** The Recipient shall include, in all contracts in excess of \$2,000 for work on the Project that involves labor, provisions establishing minimum rates of wages, to be predetermined by the United States Secretary of Labor, in accordance with the Davis-Bacon Act, 40 U.S.C. 3141–3148, or 23 U.S.C. 113, as applicable, that contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.
- 19.2 Buy America.**
- (a) Steel, iron, and manufactured goods used in the Project are subject to 49 U.S.C. 22905(a), as implemented by the Federal Railroad Administration, as if this award were to carry out chapter 229 of title 49, United States Code. The Recipient acknowledges that this agreement is neither a waiver of 49 U.S.C. 22905(a)(1) nor a finding under 49 U.S.C. 22905(a)(2).
 - (b) 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, subtit. A, 135 Stat. 429, 1298 (2021), as implemented by OMB, USDOT, and FRA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).
 - (c) 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.
- 19.3 Small and Disadvantaged Business Requirements.** The Recipient shall expend all other 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”), and to the extent applicable, 49 C.F.R. part 26 (“Participation by disadvantaged business enterprises in Department of Transportation financial assistance programs”).
- 19.4 Engineering and Design Services.** [Reserved]
- 19.5 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.

- 19.6 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.** The Recipient acknowledges that Section 889 of Pub. L. No. 115-232 and 2 C.F.R. 200.216 prohibit the Recipient and all subrecipients from procuring or obtaining certain telecommunications and video surveillance services or equipment under this award.
- 19.7 Pass-through Entity Responsibilities.** 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.
- 19.8 Subaward and Contract Authorization.** [Reserved]

ARTICLE 20 COSTS, PAYMENTS, AND UNEXPENDED FUNDS

- 20.1 Limitation of Federal Award Amount.** Under this award, the USDOT shall not provide funding greater than the amount obligated under section 11.2. 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.
- 20.2 Projects Costs.** This award is subject to the cost principles at 2 C.F.R. 200 subpart E, including provisions on determining allocable costs and determining allowable costs.
- 20.3 Timing of Project Costs.**
- (a) The Recipient shall not charge to this award costs that are incurred after the budget period.
 - (b) The Recipient shall not charge to this award costs that were incurred before the date of this agreement unless those costs are identified in Attachment 6 and would have been allowable if incurred during the budget period. This limitation applies to pre-award costs under 2 C.F.R. 200.458. This agreement hereby terminates and supersedes any previous USDOT approval for the Recipient to incur costs under this award for the Project. Attachment 6 is the exclusive USDOT approval of costs incurred before the date of this agreement.
- 20.4 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.

20.5 Unexpended Federal Funds. Any Federal funds that are awarded at section 11.1 but not expended on allocable, allowable costs remain the property of the United States.

20.6 Timing of Payments to the Recipient.

- (a) Reimbursement is the payment method for the RAISE grant program.
- (b) The Recipient shall not request reimbursement of a cost before the Recipient has entered into an obligation for that cost.

20.7 Payment Method.

- (a) If the USDOT Payment System identified in section 6.1 is “DELPHI eInvoicing,” then the Recipient shall use the DELPHI eInvoicing System (<https://www.dot.gov/cfo/delphi-einvoicing-system.html>) to request reimbursement under this award. If the Recipient requires access to that system, the Recipient shall contact the USDOT contact listed in section 5.4.
- (b) The USDOT may deny a payment request that is not submitted using the method identified in this section 20.7.

20.8 Information Supporting Expenditures.

- (a) If the USDOT Payment System identified in section 6.1 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) and shall submit supporting cost detail to document clearly all costs incurred. As supporting cost detail, the Recipient shall include a detailed breakout of all costs incurred by task and by Federal and Non-Federal funds. The Recipient shall classify all costs by task described in Attachment 2 and by Federal and non-Federal shares.
- (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.

20.9 Reimbursement Request Timing and Frequency. If the USDOT Payment System identified in section 6.1 is “DELPHI eInvoicing,” the Recipient shall request reimbursement as needed to maintain cash flow sufficient to timely complete the Project. The Recipient shall not submit any single payment request exceeding \$99,999,999.99. The Recipient shall not submit a payment request exceeding \$50,000,000.00 unless the Recipient notifies the USDOT 5 days before submitting the request.

ARTICLE 21

LIQUIDATION, ADJUSTMENTS, AND FUNDS AVAILABILITY

21.1 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 funds cancellation date identified in section 21.2.
- (b) Liquidation of obligations and adjustment of costs under this agreement follow the requirements of 2 C.F.R. 200.344–200.346.

21.2 Funds Cancellation. Outstanding FY 2021 RAISE Grant balances are canceled by statute after September 30, 2029, and are then unavailable for any purpose, including adjustments.

ARTICLE 22

AGREEMENT MODIFICATIONS

22.1 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.

22.2 Unilateral Contact Modifications.

- (a) The Recipient may update the contacts who are listed in section 5.2 by written notice to all of the USDOT contacts who are listed in sections 5.4 and 9.2.
- (b) The USDOT may update the contacts who are listed in sections 5.4 and 9.2 by written notice to all of the Recipient contacts who are listed in section 5.2.

22.3 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 22.3, 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.

22.4 Other Modifications. The parties shall not amend, modify, or supplement this agreement except as permitted under sections 22.1, 22.2, or 22.3. If an amendment, modification, or supplement is not permitted under section 22.1, not permitted under section 22.2, and not permitted under section 22.3, it is void.

ARTICLE 23
CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE

- 23.1 Climate Change and Environmental Justice.** Consistent with Executive Order 14008, “Tackling the Climate Crisis at Home and Abroad” (Jan. 27, 2021), Attachment 7 documents the consideration of climate change and environmental justice impacts of the Project.

ARTICLE 24
RACIAL EQUITY AND BARRIERS TO OPPORTUNITY

- 24.1 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 8 documents activities related to the Project to improve racial equity and reduce barriers to opportunity.

ARTICLE 25
**FEDERAL FINANCIAL ASSISTANCE, ADMINISTRATIVE, AND NATIONAL
POLICY REQUIREMENTS**

- 25.1 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.
- 25.2 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.
- 25.3 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.
- 25.4 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.

25.5 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.

25.6 External Award Terms and Obligations.

- (a) In addition to this document and the contents described in article 30, 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).

25.7 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 26 ASSIGNMENT

26.1 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 27 WAIVER

27.1 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 28 ADDITIONAL TERMS AND CONDITIONS

28.1 Effect of Urban or Rural Designation. Based on information that the Recipient provided to the USDOT, including the Technical Application, at section 2.4 this agreement designates this award as an urban award or a rural 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.

28.2 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.

28.3 Relocation and Real Property Acquisition.

- (a) To the greatest extent practicable under State law, the Recipient shall comply with the land acquisition policies in 49 C.F.R. 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. 24 subpart C and shall provide reasonable relocation payments and assistance to displaced persons as required in 49 C.F.R. 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. 24 subpart E.

28.4 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:
 - (1) if the entity that acquired the equipment is a State or a subrecipient of a State, that entity shall dispose of that equipment in accordance with State laws and procedures; and
 - (2) if the entity that acquired the equipment is neither a State nor a subrecipient of a State, that entity shall request disposition instructions from the Administering Operating Administration.
- (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 28.4 for all tiers of subawards under this award.

28.5 Project Maintenance Requirement. The Recipient shall ensure that the Project Property is maintained in good operating order and in accordance with 2 C.F.R. 200.310–200.316, 1201.313 and any guidelines, directives, or regulations that the USDOT, including FRA, may issue.

ARTICLE 29 MANDATORY AWARD INFORMATION

29.1 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 31.2;
- (2) the “Assistance Listings Number” is 20.933 and the “Assistance Listings Title” is “National Infrastructure Investments”; and
- (3) this award is not for research and development.

ARTICLE 30 CONSTRUCTION AND DEFINITIONS

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

Attachment 2	Statement of Work
Attachment 3	Estimated Project Budget
Attachment 4	Performance Measurement Information
Attachment 5	Changes from Application
Attachment 6	Approved Pre-Award Costs
Attachment 7	Climate Change and Environmental Justice Impacts
Attachment 8	Racial Equity and Barriers to Opportunity

30.2 Exhibits. The following exhibits, which are located in the document titled “Exhibits to FRA Grant Agreements Under the Fiscal Year 2021 RAISE Grant Program,” dated October 12, 2022, and available at <https://www.transportation.gov/policy-initiatives/raise/raise-grant-agreements>, are part of this agreement.

Exhibit A	Applicable Federal Laws and Regulations
Exhibit B	Additional Standard Terms

30.3 Construction. If a provision in the agreement cover sheet, exhibits, or Attachments 2–8 conflicts with a provision in articles 1–31, then the provision in articles 1–31 prevails. If a provision in Attachments 2–8 conflicts with a provision in the exhibits, then the provision in the attachments prevails.

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

30.5 Definitions. In this agreement, the following definitions apply:

“**Program Statute**” means the statutory text under the heading “Department of Transportation—Office of the Secretary—National Infrastructure Investments” in title I of division L of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (Dec. 27, 2020), and all other provisions of that act that apply to amounts appropriated under that heading.

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

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

“**Technical 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 31
AGREEMENT EXECUTION AND EFFECTIVE DATE

- 31.1 Counterparts.** This agreement may be executed in counterparts, which constitute one document. The parties intend each countersigned original to have identical legal effect.
- 31.2 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 RAISE Grant when the USDOT's authorized representative signs it.

U.S. DEPARTMENT OF TRANSPORTATION
EXHIBITS TO FRA GRANT AGREEMENTS UNDER THE
FISCAL YEAR 2021 RAISE GRANT PROGRAM

OCTOBER 12, 2022

EXHIBIT A

APPLICABLE FEDERAL LAWS AND REGULATIONS

By entering into this agreement for a FY 2021 RAISE 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. Davis-Bacon Act - 40 U.S.C. § 3141 et seq.
- b. Federal Fair Labor Standards Act - 29 U.S.C. § 201 et seq.
- c. Hatch Act - 5 U.S.C. § 1501 et seq.
- d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 - 42 U.S.C. § 4601 et seq.
- e. National Historic Preservation Act of 1966 – Section 106 - 54 U.S.C. § 306108
- f. Archeological and Historic Preservation Act of 1974 - 54 U.S.C. §§ 312501–312508
- g. Native American Graves Protection and Repatriation Act - 25 U.S.C. § 3001 et seq.
- h. Clean Air Act, P.L. 90-148, as amended – 42 U.S.C. § 7401 et seq.
- i. Section 404 of the Clean Water Act, as amended - 33 U.S.C. § 1344
- j. Section 7 of the Endangered Species Act, P.L. 93-205, as amended – 16 U.S.C. § 1536
- k. Coastal Zone Management Act, P.L. 92-583, as amended – 16 U.S.C. § 1451 et seq.
- l. Flood Disaster Protection Act of 1973, Section 102(a) – 42 U.S.C. § 4012a
- m. Age Discrimination Act of 1975 - 42 U.S.C. § 6101 et seq.
- n. American Indian Religious Freedom Act, P.L. 95-341, as amended
- o. Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq.
- p. 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.
- q. Sections 523 and 527 of the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2
- r. Architectural Barriers Act of 1968 - 42 U.S.C. § 4151 et seq.
- s. Power Plant and Industrial Fuel Use Act of 1978, P.L. 100-42 - Section 403 - 42 U.S.C. § 8373
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. § 3701 et seq.
- u. Copeland Anti-kickback Act, as amended - 18 U.S.C. § 874 and 40 U.S.C. § 3145
- v. National Environmental Policy Act of 1969 - 42 U.S.C. § 4321 et seq.
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271 et seq.
- x. Federal Water Pollution Control Act, as amended - 33 U.S.C. §§1251–1376
- y. Single Audit Act of 1984 - 31 U.S.C. § 7501 et seq.
- z. Americans with Disabilities Act of 1990 - 42 U.S.C. § 12101 et seq.
- aa. Title IX of the Education Amendments of 1972, as amended - 20 U.S.C. §§ 1681–1683 and §§ 1685–1687
- bb. Section 504 of the Rehabilitation Act of 1973, as amended - 29 U.S.C. § 794
- cc. Title VI of the Civil Rights Act of 1964 - 42 U.S.C. § 2000d et seq.
- dd. Title IX of the Federal Property and Administrative Services Act of 1949 - 40 U.S.C.

§§ 1101-1104

- ee. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. § 1352
- ff. Freedom of Information Act - 5 U.S.C. § 552, as amended
- gg. Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. § 1801 et seq.
- hh. Farmland Protection Policy Act of 1981 – 7 U.S.C. § 4201 et seq.
- ii. Noise Control Act of 1972 – 42 U.S.C. § 4901 et seq.
- jj. Fish and Wildlife Coordination Act of 1956 – 16 U.S.C. § 661 et seq.
- kk. Section 9 of the Rivers and Harbors Act and the General Bridge Act of 1946 - 33 U.S.C. §§ 401 and 525
- ll. Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303
- mm. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended – 42 U.S.C. §§ 9601–9657
- nn. Safe Drinking Water Act – 42 U.S.C. §§ 300f to 300j-26
- oo. The Wilderness Act – 16 U.S.C. §§ 1131–1136
- pp. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 – 42 U.S.C. § 6901 et seq.
- qq. Migratory Bird Treaty Act 16 U.S.C. § 703 et seq.
- rr. 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)
- ss. Cargo Preference Act of 1954 – 46 U.S.C. § 55305
- tt. Build America, Buy America Act – Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298
- uu. 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

Specific assurances required to be included in the FY 2021 RAISE Grant agreement by any of the above laws, regulations, or circulars are hereby incorporated by reference into this agreement.

EXHIBIT B
ADDITIONAL STANDARD TERMS

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

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

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

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

The United States Department of Transportation (USDOT)

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

By signing and submitting the Technical Application and by entering into this agreement under the FY 2021 RAISE 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 Railroad Administration (FRA), 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 FRA.

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 2021 RAISE 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 2021 RAISE 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 FRA'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 FRA. You must keep records, reports, and submit the material for review upon request to FRA, 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 2021 RAISE 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 2021 RAISE 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 Railroad Administration (FRA), 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 FRA 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 FRA, 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 FRA 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 FRA 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 Consolidated Appropriations Act, 2021 (Pub. L. 116-260, Dec. 27, 2020), the Regulations for the Administration of FY 2021 RAISE Grant Program, and the policies and procedures prescribed by the Federal Railroad Administration (FRA) 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);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- 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 FRA 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 2021 RAISE Grant program, the Recipient is providing the assurances and certifications for First Tier Participants and Lower Tier Participants in the FY 2021 RAISE 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 FRA 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, 2021 (Pub. L. 116-260), 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 madethen 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.

Front Range Passenger Rail District
Resolution No. 2025-02
Exhibit B

EXHIBIT B
Funding Agreement with the City of Trinidad (Federal Funds)
[See Attached]

FUNDING AGREEMENT

This Funding Agreement (“**Agreement**”) is entered into this ____ day of ____, 2025, between the Front Range Passenger Rail District, an independent Colorado agency, (“**FRPR**”), and the City of Trinidad, Colorado, a home rule municipal corporation (the “**City**”). FRPR and the City are collectively referred to herein as the “**Parties**.”

RECITALS

- A. WHEREAS, in June, 2021, pledges were made by funding partners in support of the Southwest Chief La Junta Restoration Program (aka 2021 RAISE grant; aka Amtrak Southwest Chief Route Restoration Program) (the “**Program**”);
- B. WHEREAS, in February, 2025, a Notice to Proceed was issued to BNSF by the City of Trinidad to commence with the Program;
- C. WHEREAS, FRPR’s funding commitment to the Program is in the amount of Twelve Million and 00/100 (\$12,000,000).
- C. WHEREAS, upon the terms and conditions set forth below, the Parties desire to enter into this Agreement to provide for the full execution and completion of the Program.

COVENANTS

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the Parties agree as follows:

- 1. . Within 30 calendar days of receipt of an invoice from the City of Trinidad, FRPR agrees to remit its full funding commitment to the City in support of the Program. Payment shall be made as follows:

City of Trinidad, Colorado
Attn: Cheryl Navarette, Finance Director
135 N. Animas Street
Trinidad, CO 81082

Amount: \$12,000,000

In lieu of a check, a wire transfer may be accomplished.

- 2. . The City of Trinidad has executed the grant agreement and the necessary construction and maintenance agreement, thereby committing to the completion of the Program. The City warrants that the funds received from all funding partners will be used exclusively for the benefit of the Program.
- 3. . This Agreement shall be construed and interpreted in accordance with the laws of the State of Colorado.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first written above.

Les Downs, City Attorney

Front Range Passenger Rail District
Resolution No. 2025-02
Exhibit C

EXHIBIT C
Funding Agreement with the City of Trinidad (District Matching Funds)
[See Attached]

FUNDING AGREEMENT

This Funding Agreement (“**Agreement**”) is entered into this ____ day of _____, 2025, between the Front Range Passenger Rail District, an independent Colorado agency, (“**FRPR**”), and the City of Trinidad, Colorado, a home rule municipal corporation (the “**City**”). FRPR and the City are collectively referred to herein as the “**Parties**.”

RECITALS

- A. WHEREAS, in June, 2021, pledges were made by funding partners in support of the Southwest Chief La Junta Restoration Program (aka 2021 RAISE grant; aka Amtrak Southwest Chief Route Restoration Program) (the “**Program**”);
- B. WHEREAS, in February, 2025, a Notice to Proceed was issued to BNSF by the City of Trinidad to commence with the Program;
- C. WHEREAS, FRPR’s funding commitment to the Program is in the amount of Twenty Thousand and 00/100 (\$20,000).
- C. WHEREAS, upon the terms and conditions set forth below, the Parties desire to enter into this Agreement to provide for the full execution and completion of the Program.

COVENANTS

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the Parties agree as follows:

- 1** . Within 30 calendar days of receipt of an invoice from the City of Trinidad, FRPR agrees to remit its full funding commitment to the City in support of the Program. Payment shall be made as follows:

City of Trinidad, Colorado
Attn: Cheryl Navarette, Finance Director
135 N. Animas Street
Trinidad, CO 81082

Amount: \$20,000

- 2.** . The City of Trinidad has executed the grant agreement and the necessary construction and maintenance agreement, thereby committing to the completion of the Program. The City warrants that the funds received from all funding partners will be used exclusively for the benefit of the Program.

- 3** . This Agreement shall be construed and interpreted in accordance with the laws of the State of Colorado.

4 . This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter contained herein and supersedes all prior and contemporaneous agreements, representations, and understandings of the Parties. It shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors, and assigns of each of the Parties. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by all of the Parties. No waiver of this Agreement shall be binding unless executed in writing by the party making the waiver.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first written above

**FRONT RANGE PASSENGER RAIL
DISTRICT**

STATE OF)
) SS.
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of 2025, by .

WITNESS my hand and official seal.

Notary Public

My Commission expires:

CITY OF TRINIDAD, COLORADO

By:

Name: AUDRA REIT

Its: CITY CLERK

ATTEST:

KIMBERLY LOPEZ, Asst. City Clerk

APPROVED AS TO FORM:

Les Downs, City Attorney