

SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY
GOVERNING BOARD MEETING: SEPTEMBER 24, 2021

AGENDA ITEM REPORT

Consent Regular

SUBRECIPIENT AGREEMENT BETWEEN BROWARD METROPOLITAN PLANNING ORGANIZATION AND SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY FOR FARE INTEROPERABILITY

REQUESTED ACTION:

MOTION TO APPROVE: The Subrecipient Agreement between Broward Metropolitan Planning Organization (BMPO) and South Florida Regional Transportation Authority (SFRTA) for Fare Interoperability for the implementation of a regional mobile ticketing solution.

SUMMARY EXPLANATION AND BACKGROUND:

The BMPO has allocated \$1,632,378 in Federal Transit Administration (FTA) grant funds to the SFRTA for the acquisition and implementation of a Regional Mobile Ticketing Solution. The effort involves three (3) phases: 1) update and rebranding of the Tri-Rail mobile ticketing application; 2) implementation of a mobile ticketing back office solution; and 3) a regional mobile ticketing solution. The phases are described in greater detail in the Scope of Work included with Exhibit 1.

(Continued on page 2)

Department: Planning and Capital Development Department Director: Loraine Cargill, AICP

Project Manager: Lee I. Taylor, MSM, PMP Chief Contracting Officer: Bryan Kohlberg

Finance Director: Diane Hernández Del Calvo

FISCAL IMPACT: Funds will be included in SFRTA's FY 2021 – 2022 Capital Budget

FUNDING SOURCE: FTA Grant Funds

EXHIBITS ATTACHED: Exhibit 1 – Subrecipient Agreement between BMPO and SFRTA

SUBRECIPIENT AGREEMENT BETWEEN BROWARD METROPOLITAN PLANNING
ORGANIZATION AND SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY
FOR FARE INTEROPERABILITY

SUMMARY EXPLANATION AND BACKGROUND (Continued):

SFRTA's ultimate goal is to develop a mobile ticketing solution which not only includes fare offerings from regional transit partners (including Broward County Transit, Palm Tran and Miami Dade Department of Transportation and Public Works), but also incorporates bike sharing and ride sharing services to enable door to door trip planning and purchasing. To this end, SFRTA will develop an open-platform solution which will allow regional transportation services (both public and private) the option of integrating their own fare products. This added convenience will provide Tri-Rail passengers and other public transit customers the ability to plan, book and purchase multiple mobility options.

SUBRECIPIENT AGREEMENT BETWEEN BROWARD METROPOLITAN PLANNING ORGANIZATION AND SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY FOR FARE INTEROPERABILITY

Recommended by: [Signature] 9/21/21 Approved by: Bryan Kohlsang 9/21/21
Department Director Date Chief Contracting Officer Date

Authorized by: [Signature] 9/21/21 Authorized by: Diane Hdz Del Calvo 9/21/21
Executive Director Date Finance Director Date

Approved as to Form by: [Signature] 9/21/21
General Counsel Date

TRUE COPY
APPROVED BY SFRTA
GOVERNING BOARD ON: 9/24/21
RECORDING SECRETARY
D.H.D.C.
DIANELYS HDZ. DEL CALVO

Board Action:

Approved: Yes No

Vote: Unanimous

Amended Motion:

J.C. de ONA	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	TIM RYAN	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MARIA G. MARINO	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	JAMES A. SCOTT	(Excused) <input type="checkbox"/> Yes <input type="checkbox"/> No
GERRY O'REILLY	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	ROBERT B. SENDLER	(Excused) <input type="checkbox"/> Yes <input type="checkbox"/> No
CARLOS A. PENIN	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	HAL R. VALECHE	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
RAQUEL A. REGALADO	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	ROBERT C. L. VAUGHAN	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

SUBRECIPIENT AGREEMENT

BETWEEN

BROWARD METROPOLITAN PLANNING ORGANIZATION

And

SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY

For

FARE INTEROPERABILITY

This is an Agreement ("Agreement") made and entered into by and between: **BROWARD METROPOLITAN PLANNING ORGANIZATION**, created pursuant to Section 339.175, Florida Statutes, hereinafter referred to as "BMPO,"

AND

SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY, a political subdivision of the State of Florida, hereinafter referred to as "SFRTA", together hereinafter referred to as the "Parties".

WHEREAS, Federal Highway Administration ("FHWA") flexed to the Federal Transit Administration ("FTA") certain eligible regional surface transportation funds for the benefit of and use by BMPO, and FTA has provided these funds available through the Urbanized Area Formula Grant program (49 USC §5307); and

WHEREAS, the BMPO submitted two applications to the FTA for the Fare Interoperability Project, Project ID Number: FL-2016-003-01 and Project ID Number FL-95-X064-01; and

WHEREAS, Project FL-95-X064-01 has been completed and the grant funds associated with Project FL-95-X064-01 have been satisfied; and

WHEREAS, a portion of the funding was also allocated to Broward County Transit for upgrades to their fare boxes and operating system, while Project FL-2016-003-01 remains viable with remaining grant funds; and

WHEREAS, Project FL-2016-003-01 remains viable with available grant funds, and the FTA has approved BMPO's grant application to use the flexed funds in the amount of \$3,790,000 to implement the Fare Interoperability Project (the "Project") matched by \$947,500 in Transportation Development Credits from the Florida Department of Transportation; and

WHEREAS, of the \$3,790,000 in "Grant Funds," the BMPO has allocated \$1,632,378 from the remaining FTA Project FL-2016-003-01 funds to the SFRTA for the implementation of the Project pursuant to this Agreement, and the BMPO will allocate any remaining portion of the Grant Funds to cover the BMPO's administrative expenses associated with this Project; and

WHEREAS, the BMPO is responsible for ensuring that the Grant Funds are properly utilized to implement the Project and that the SFRTA complies with FTA's Section 5307 grant requirements; and

WHEREAS, this Agreement is intended to define the roles and responsibilities of the Parties with respect to the development, implementation, and maintenance of the

Project including, but not limited to, procurement activities, invoicing, review and approval of eligible costs, compliance with grant provisions including conformance with scope, schedule, and budget and related timely reporting, as well as all FTA pass-through requirements and reporting; and

WHEREAS, BMPO and SFRTA desire to enter into an Agreement whereby the duties and obligations of each party to the other are set forth therein.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the BMPO and SFRTA agree as follows:

ARTICLE 1
DEFINITIONS AND IDENTIFICATIONS

For purposes of this Agreement, reference to one gender shall include the other, use of the plural shall include the singular, and use of the singular shall include the plural. The following definitions apply unless the context in which the word or phrase is used requires a different definition:

- 1.1 **Agreement** - means this document, Articles 1 through 16, inclusive. Other terms and conditions are included in the exhibits and documents that are expressly incorporated by reference.
- 1.2 **BMPO Board** – The Broward Metropolitan Planning Organization Board.
- 1.3 **BMPO Contract Administrator** - The BMPO Executive Director, or his/her designee. The primary responsibilities of the BMPO Contract Administrator are to coordinate and communicate with SFRTA and FTA.
- 1.4 **SFRTA Contract Administrator** - The Executive Director of the SFRTA, or his/her designee. The primary responsibilities of the SFRTA Contract Administrator are to coordinate and communicate with BMPO and to manage and supervise execution and completion of the Scope of Services and the terms and conditions of this Agreement as set forth herein. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely on the instructions or determinations made by the SFRTA Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.
- 1.5 **Project** - The Project consists of the services described in Article 2.

ARTICLE 2
PURPOSE AND SCOPE OF SERVICES

- 2.1 The purpose of this Agreement is to set out the terms and conditions applicable to BMPO's transfer of FTA Section 5307 Grant Funds to the SFRTA, as the subgrantee, for the Fare Interoperability Project ID Number 2016-003-01; and as described in the grant application submitted to FTA.
- 2.2 The Scope includes updating SFRTA's Mobile Ticketing Solution and developing this into a Regional Application for Mobility. This includes three (3) phases: 1) Update and Rebranding of Tri-Rail Mobile Ticketing Application; 2) Implementation of Mobile Ticketing Back Office Solution; and 3) Regional Mobile Ticketing Solution. The Scope of Services is more fully defined in Exhibit A, which is attached hereto and made a part hereof.
- 2.3 Through this Agreement, the BMPO will reimburse the SFRTA for completing the design and implementation of the Project, and associated project elements. The reimbursement will occur no more frequently than on a monthly basis as the SFRTA provides invoices and progress reports to document its progress.
- 2.4 The SFRTA will be responsible for administering and managing the Project in a manner satisfactory to the BMPO and consistent with the Scope of Services.

ARTICLE 3
FEDERAL GRANT PASS THROUGH REQUIREMENTS;
PROGRESS AND FINANCIAL REPORTING

- 3.1 Section 5307 Grant - SFRTA agrees to comply with all the terms and conditions set out in the Section 5307 Grant agreement and the FTA Master Grant Agreement. A copy of the 5307 Grant agreement executed by BMPO which sets out the allocation of Section 5307 funds for the Project ("Grant Agreement") attached hereto as Exhibit "B", and the FTA Master Grant Agreement ("Master Agreement") is referenced herein as Exhibit "C" and is available for review upon request. SFRTA acknowledges that this Master Agreement may be amended by FTA in the future and SFRTA agrees to abide by any amendments. In consideration for BMPO's payment to SFRTA of the Section 5307 Grant funds, SFRTA shall perform the Project in compliance with each and every applicable term and condition set forth in the Grant Agreement and the Master Agreement, as either such Agreements may be amended.
- 3.2 The SFRTA shall comply with the applicable Section 5307 grant requirements applicable to the Project, including, but not limited to compliance with requirements relating to the source of the local share, accounting, records

retention, audit provisions, Disadvantaged Business Enterprise (DBE) requirements, competitive procurement, Davis Bacon Act requirements, and Buy America requirements. BMPO may enforce against SFRTA any right that FTA may enforce against BMPO pertaining to the Provision of FTA funds to SFRTA from the BVPO under the Section 5307 grant.

- 3.3 In addition to the obligations of the Section 5307 grant, SFRTA must comply with any and all laws, statutes, rules, regulations, circulars, directives, and requirements of the federal and state government that relate to or in any manner affect the performance of public transit services and/or the Project grant funds under this Agreement. These regulations, circulars, and directives include, without limitation, the following: FTA Circular No. 4220.1F, "Third Party Contracting Guidelines"; 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"; Office of Management and Budget Circular A-87, Revised, "Cost Principles Applicable to Grants and Contracts with State and Local Governments"; FTA "Best Practices Procurement Manual"; and any amendments or revisions to the foregoing. Anything in this Agreement to the contrary, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. SFRTA shall not perform any act, fail to perform any act, or refuse to comply with any BMPO requests which would cause BMPO to be in violation of the FTA terms and conditions related to the Grant Agreement or the Master Agreement.
- 3.4 The SFRTA agrees to submit monthly progress and financial reports to the BMPO, so that the BMPO can submit to FTA and as required. The Parties agree to work collaboratively to ensure reports to FTA are complete, accurate, and timely. Progress reports include a monthly breakdown of activities performed during the period.
- 3.5 In addition to the progress reporting elements listed in 3.4, any delay in schedule or concern about not meeting the Project grant schedule or expanding the scope or exceeding the grant budget must be identified and accompanied by an explanation of what steps are being taken to bring the scope, schedule and budget back in line with the grant provisions.
- 3.6 If for any reason the SFRTA does not provide the required progress and financial reports, the BMPO reserves the right to withhold future reimbursements for the Project.
- 3.7 SFRTA's failure to reasonably perform its obligations related to the receipt of the Project Grant Funds shall constitute a material breach of this Agreement. SFRTA, to the extent permitted by law, agrees to indemnify and hold the BMPO harmless from any liability, demand, claim, penalty or any other adverse action resulting

from breach by the SFRTA of its obligations related to the receipt of the Project Grant Funds, including, any demand for return of all or a portion of the Project Grant Funds (including interest and penalties). In the event there are changes made to the Grant Agreement after execution by BMPO and FTA, or the execution of this Agreement, the parties agree to amend this Agreement as necessary to comply with those changes.

ARTICLE 4 TERM

- 4.1 This Agreement shall be effective upon approval by both parties and shall continue in full force and effect until SFRTA performs all obligations and responsibilities, with respect of the funds as set forth in Exhibit "A," imposed on BMPO by FTA for receipt of federal funds under the Section 5307 grant for the Project, or September 30, 2024, whichever occurs first.
- 4.2 The parties hereto may extend this Agreement by mutual consent in writing prior to the expiration of the Term. This provision in no way limits either party's right to terminate this Agreement at any time during the Term.

ARTICLE 5 PROCUREMENT PROCEDURES

- 5.1 The SFRTA agrees that it must demonstrate that their procurement policies and procedures meet the guidelines as outlined in FTA's Circular 4220.1.F., as may be amended from time to time. All contracts with subconsultants must be submitted to BMPO for review prior to execution. The BMPO will approve all subconsultant contracts within 30 days or receipt.
- 5.2 Any Contractor selected by the SFRTA under its procurement procedures must be eligible to receive a contract under Federal and BMPO procurement rules or regulations and must not appear on any State or Federal list of suspended or ineligible contractors.
- 5.3 In the event that a submittal, contract modification, or supplemental agreement is determined by the SFRTA to be necessary and it is expected to increase the cost or time for performance of any contract awarded by the SFRTA, the SFRTA agrees to submit written notice to the BMPO before approving the submittal or issuing or executing such change or agreement. The SFRTA also acknowledges that any change to any contract is considered a change order under FTA procurement

requirements and requires the SFRTA to do an independent cost analysis as part of the change order process.

- 5.4 The Parties agree that the SFRTA will not move forward with a contract modification or supplemental agreement without prior BMPO written approval.
- 5.5 Quarterly Milestone Progress Reports. The SFRTA shall submit quarterly milestone progress reports to BMPO. BMPO shall provide the SFRTA with an electronic version of the milestone progress report that the SFRTA must complete. Each quarterly progress report must include a detailed summary of the completed Scope of Services activities and a report on the Scope of Services schedule. Both BMPO and the SFRTA must approve each quarterly milestone progress report. The Quarterly progress reports are due as follows:
 - January 15 for quarter October 1 – December 31
 - April 15 for quarter January 1 – March 31
 - July 15 for quarter April 1 – June 30
 - October 15 for quarter July 1 – September 30
- 5.6 Final Reports. Upon completion of the Scope of Services and not later than sixty (60) calendar days after the end of the Project Activity Period, the SFRTA must submit a final progress report and a final financial status report of expenditures for the full Scope of Services that contains a final accounting of the grant matching expenditures. If outstanding claims related to work occurring during the Project Activity Period still exist sixty (60) days following the end of the Project Activity Period, the submission of the Final Report shall automatically extend until all outstanding claims have been resolved.
- 5.7 Contents of Reports. The SFRTA agrees to report completely and to provide BMPO with any additional or follow-up information as may be requested by BMPO.
- 5.8 DBE Reporting Requirements. The SFRTA shall provide BMPO with reports on all DBE activity for each third-party agreement based on the procurement process established for the SFRTA in the *FTA Master Agreement (26), Section 15 Procurement* (see Section 7.3 for web link).
- 5.9 Other Monitoring Activities. To assist BMPO in monitoring compliance with this Agreement, the SFRTA agrees to attend meetings as requested by BMPO and to permit site visits by BMPO staff, during business hours, upon reasonable notice. The SFRTA agrees to submit to BMPO a copy of any promotional information regarding the Scope of Services disseminated by the SFRTA during the term of this Agreement.
- 5.10 Changed Conditions. The SFRTA agrees to notify BMPO immediately of any

change in conditions, law, ordinance, or regulation, or any other event that may affect the SFRTA's ability to perform the Scope of Services in accordance with the terms of this Agreement.

- 5.11 Special Reporting Requirements. BMPO is required to report to the FTA regarding activities. Accordingly, SFRTA agrees to provide BMPO with any additional follow-up information reasonably requested by BMPO in order to meet BMPO reporting requirements. Specific reporting requirements are set forth in the *FTA Master Agreement (26)*, *Section 8 Reporting, Record Retention and Access* (see section 7.3 for web link).

ARTICLE 6 IMPLEMENTATION PROCEDURES

- 6.1 SFRTA agrees, to provide BMPO, in writing the designation of an individual to act as its "SFRTA Project Representative." The SFRTA Project Representative will be available to and is authorized to represent and act on behalf of the SFRTA within the limits described in the written notification, and, will to the limits agreed to by the Parties, be involved in the Project execution on a day-to-day basis. BMPO will also appoint by written notification to SFRTA, the designation of an individual to act as the "BMPO Contract Administrator." The BMPO Contract Administrator will be available to represent and act on behalf of the BMPO within the limits described in the written notification, and will, to the limits agreed to by the Parties, be involved in the Project developments on a day-to-day basis. Both Parties agree that it is important to keep both Contract Administrator s apprised of all developments/issues that arise related to the Project.
- 6.2 Upon completion of the respective contract requirements, the SFRTA agrees to separately issue "Final Acceptance" to each respective contractor for final product acceptance acknowledging the Project's completion.
- 6.3 Continuing Control and Maintenance — The SFRTA agrees to the continued operation of Project for its originally intended purpose for a minimum of the useful life of the assets. The SFRTA will provide annual reports to the BMPO on the condition of the assets through the useful life of the project and be responsible for repayment to FTA should the assets be taken out of service before the useful life is met. The SFRTA agrees to be responsible for maintenance of the Project and related utilities, facilities, and equipment after completion of the work.
- 6.4 Ownership of Documents - Upon completion or termination of this Agreement, all documents created or prepared by either Party will remain the property of that Party.

All such documents, except those that may be privileged or otherwise may be legally withheld, will be made available to the other Party without restriction or limitation on their further use.

ARTICLE 7
FEDERAL GOVERNMENT-WIDE AUDIT, ADMINISTRATIVE,
AND COST PRINCIPLES REQUIREMENTS

- 7.1 The parties agree to the following limited and specific procedural modifications to the CONSIDERATION AND PAYMENT.
- 7.2 The Office of Management and Budget issued a new OMB Super Circular (replacing Administrative, Cost Principles and Audit requirements for recipients of Federal funds). The US Department of Transportation adopted these changes in their regulations in 49 CFR Part 1201, superseding its previous administrative requirements contained in 49 CFR Part 18.
- 7.3 Eligibility of costs. All expenses are subject to FTA regulations including:
- *FTA Master Agreement*
(<https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/funding/grantee-resources/sample-fta-agreements/146616/fta-master-agreement-fy-2020.pdf>)
 - *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*, 49 CFR Part 18
(http://www.access.gpo.gov/nara/cfr/waisidx_06/49cfr18_06.html)
 - *Grant Management Requirements*, FTA Circular 5010.1E
(<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/final-circulars>)
 - *Third Party Contracting Guidance*, FTA Circular 4220.1F
(<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/final-circulars>) ((See also paragraph 10.05)
 - *Capital Investment Program Guidance and Application Instructions*, FTA Circular C 9300.1B(<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/final-circulars>)

ARTICLE 8
FUNDING AND REIMBURSEMENT PROCEDURES

- 8.1 BMPO agrees to reimburse the SFRTA upon submission of satisfactory, substantiated monthly progress and financial reports for costs associated with the preceding month. Each invoice must list total expenses by FTA budget category and include supporting receipts, progress reports, and any reasonable and necessary documentation determined by BMPO to comply with FTA requirements. Invoices will detail total Project expenditures requested to be reimbursed with FTA funds. Reimbursement of the BMPO's and SFRTA's expenses for the Fare Interoperability Project funded under the Section 5307 grant shall be subject to the cost principles set forth in the Office of Management and Budget Circular A-87, Revised, "Cost Principles Applicable to Grants and Contracts with State and Local Governments," as well as the applicable provisions of the Section 5307 grant. The BMPO agrees to reimburse SFRTA for its expenditures that are allowable under the Fare Interoperability Project, provided, however, that the total amount of administrative expense reimbursements to the SFRTA shall not exceed \$81,619.00, the amount which remains from the Section 5307 grant for the Fare Interoperability Project that was previously allocated to the BMPO for its remaining administrative expenses.
- 8.2 The SFRTA agrees to submit requests for reimbursement by submitting original itemized invoices with receipts in a form and containing all items required by the BMPO. If there is any question with any invoiced amount, authorized representatives of BMPO and the SFRTA will meet within five days to resolve any questions or disputes regarding the invoice.
- 8.3 The SFRTA agrees to remit to BMPO any excess payments made to the SFRTA and/or any costs disallowed by FTA within thirty (30) days of notification by the BMPO.
- 8.4 The SFRTA agrees that Project costs eligible for Federal participation must comply with all the following requirements, except to the extent that BMPO determines otherwise in writing. To be eligible for reimbursement, Project costs must be:
- 8.4.1 Consistent with the Project Description, the approved Project budget, eligible expenses under 49 U.S.C. §5307 and other terms of the Grant Agreement for the Project;
- 8.4.2 Necessary in order to accomplish the Project;
- 8.4.3 Reasonable for the goods or services purchased;

- 8.4.4 Actual net costs to the SFRTA (i.e., the price paid minus any refunds, rebates, or other items of value received by the SFRTA that have the effect of reducing the cost actually incurred, excluding program income);
- 8.4.5 Incurred for work performed after the Effective Date of the Grant Agreement, unless BMPO determines otherwise in writing;
- 8.4.6 Documentation that meets FTA and BMPO reimbursement requirements;
- 8.4.7 Treated consistently in accordance with accounting principles and procedures consistent with the OMB Super Circular, approved by BMPO, and with accounting principles and procedures approved by the SFRTA for its third-party contractors and subrecipients.
- 8.5 All references to OMB regulations contained in this Agreement reflect OMB Super Circular (2 CFR Part 200) and associated USDOT Regulations and requirements.

ARTICLE 9 INDEMNIFICATION

Except for the indemnification provision in Section 3.7 of this Agreement, to the extent permitted by law, BMPO, and the SFRTA agree that each party is responsible for its individual acts and deeds as well as the acts and deeds of their respective contractors, employees, representatives and agents and each party agrees that it shall indemnify, defend and hold each and every other party harmless from and against all claims, damages, lawsuits, judgments, costs, attorney's fees and expenses directly arising out of or as a direct result of any such deeds or acts; provided, however, that nothing in this Agreement shall be interpreted as a waiver of governmental immunity on behalf of any of the parties.

ARTICLE 10 CONSIDERATION AND PAYMENT

- 10.1 As the Project is funded through the Grant Funds, the BMPO shall have no obligation to independently fund the costs of the Project.
- 10.2 Reimbursement of the BMPO's and SFRTA's expenses for the Project funded under the Section 5307 grant shall be subject to the cost principles set forth in Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements For Federal Award at the following links:
- 10.2.1. (<https://www.gpo.gov/fdsys/granule/CFR-2017-title2-vol1/CFR-2017-title2-vol1-part200>);

10.2.2 (<https://www.gpo.gov/fdsys/pkg/CFR-2017-title2-vol1/pdf/CFR-2017-title2-vol1-part200.pdf>);

10.2.3 The Federal Register at:

(<https://www.federalregister.gov/documents/2017/05/17/2017-09909/uniform-administrative-requirements-cost-principles-and-audit-requirements-for-federal-awards>); as well as the applicable provisions of the Section 5307 grant. The BMPO agrees to reimburse SFRTA for its expenditures that are allowable under the Project grant. BMPO shall charge costs directly associated with the BMPO's oversight of the Project.

- 10.3 Each milestone for the Project shall be documented and an allowable cost shall be associated to the SFRTA for each milestone.

Completion of implementation phases of the Project will be deemed to have occurred when the SFRTA submits all receipts, certificate of completion, if any, and all other necessary documentation indicating the implementation phases have been completed in a satisfactory manner.

At the completion of the Project, the SFRTA shall provide verified actual costs satisfactorily demonstrated to have been expended by the SFRTA for completion of the Project, in an amount not to exceed One Million Six Hundred and Thirty Two Thousand and Three Hundred and Seventy Eight 00/100 Dollars (\$1,632,378). Upon satisfactory review and approval of all required documentation from the SFRTA, the BMPO shall pay the balance of the total contract amount after the costs reimbursed for the preceding milestones.

- 10.4 Requests for Reimbursement. In order to obtain any of the federal funds available from the BMPO under this Agreement, the SFRTA shall file with the BMPO its request for reimbursement and any other information regarding to the Project required to justify and support the payment request. Payment requests must include a certification, signed by an official who is authorized to legally bind the SFRTA, which reads as follows:

“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812).

- 10.5 Upon receipt of SFRTA's properly documented invoice BMPO shall pay SFRTA the applicable federal share of the invoice within thirty (30) days. SFRTA's invoice shall include evidence of payment including, payroll records and invoices from SFRTA's contractor(s) and proof of payment to contractor(s) to verify that SFRTA has incurred the costs set out in its invoice. The BMPO reserves the right to require SFRTA to submit additional reasonable documentation to verify that SFRTA has incurred the costs set out in its invoice and that the amount of the invoice does not exceed the applicable federal share of the allocation of Section 5307 grant funds, less the BMPOs administrative costs under the Project grant.
- 10.6 If BMPO disputes any items on an invoice for a reasonable cause, BMPO may deduct that disputed item from the payment, but shall not delay payment for the undisputed portions. The amounts and reasons for such deductions shall be documented to SFRTA and the parties agree to timely meet to resolve any such disputes.
- 10.7 The BMPO's obligation to provide reimbursement to SFRTA shall be limited to the availability of funds to BMPO from FTA which are specifically earmarked for the Project. In the event that FTA shall deny any of BMPO's request for payments relating to the Project, or if FTA shall request the return of any funds relating to the Project that have been previously paid, SFRTA shall, within sixty (60) days of receiving notice from BMPO of FTA's denial or request for return of funds already paid, return to BMPO the funds that FTA has declined to reimburse or requested to be returned. SFRTA's requirement to return funds shall include the payment of any interest or penalties required by FTA.
- 10.8 Payments shall be made to SFRTA at:

South Florida Regional Transportation Authority
Accounts Payable
801 NW 33rd St
Pompano Beach, FL 33064

ARTICLE 11 INSURANCE

- 11.1 SFRTA is an entity subject to Section 768.28, Florida Statutes, and SFRTA shall furnish the BMPO with written verification of liability protection in accordance with state law prior to final execution of this Agreement.
- 11.2 Workers' Compensation. The SFRTA shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If contracting for any of the work, the SFRTA shall ensure that its

contractors have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), the SFRTA shall ensure that such employees are covered by Workers' Compensation insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.

- 11.3 Surety - SFRTA agrees to require the contractor awarded the Project contract to provide all required surety bonds, consistent with FTA levels and requirements. The SFRTA agrees to also ensure that the contractor carries insurance of the types and amounts needed to protect the interests of the SFRTA and BMPO. Before beginning work, the SFRTA agrees to provide BMPO with a fully executed copy of a Certificate of Insurance and evidence of surety bond, or copies of policies or endorsements when necessary, verifying the existence of the required coverage for all persons and entities working on the Project. This coverage shall be maintained until all work is complete and for a three-year extended reporting period after completion. If coverage is not maintained, all work shall cease immediately, and the SFRTA and/or BMPO may recover damages allowed by law.

ARTICLE 12 TERMINATION

- 12.1 This Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within thirty (30) days after written notice from the aggrieved party identifying the breach.
- 12.2 This Agreement may be terminated for cause for reasons including, but not limited to, SFRTA's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work or submit invoices; or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement.
- 12.3 Should either party involuntarily fail to perform any of their respective obligations pursuant to this Agreement, this Agreement may be terminated.
- 12.4 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement.
- 12.5 Supplemental Termination Provisions — The Parties may terminate this Agreement subject to the following conditions:

- 12.5.1 If the SFRTA elects not to continue the Project at any point, the SFRTA agrees to reimburse the BMPO for all grant funds used for incurred eligible costs including those expended by BMPO. All other terms and conditions of this Agreement would remain in effect.
- 12.5.2 Federal Government Termination — Any or all terms of this Agreement may be suspended or terminated if the Federal Government suspends or terminates the Project funding.
- 12.5.3 In the event that this Agreement is terminated at any point before grant close out, BMPO will continue to serve as the FTA Grantor and the SFRTA will continue to be the Grantee until any contracts related to the Project and/or this Agreement are closed and any dispute with any contractor is resolved, and/or the Project is complete and records are transferred.
- 12.5.4 The Parties agree that they will provide mutual support to ensure each Party meets its obligation under this Agreement.
- 12.5.5. The Parties agree that the BMPO, as the FTA recipient, has a fundamental oversight function to ensure that all FTA requirements are met and the SFRTA will provide all necessary records and materials in a timely manner to ensure that BMPO can meet that function during the term of this Agreement.

ARTICLE 13
MAINTENANCE OF RECORDS/AUDITS

- 13.1 SFRTA shall maintain books, records, documents, and other evidence directly pertinent to work under this Agreement in accordance with generally accepted accounting principles and practices. SFRTA shall also maintain for a period of three (3) years from the latter of the date of Section 5307 grant close-out or expiration of this Agreement the financial information and data used by SFRTA in the preparation or support of the proposed or actual costs submitted for reimbursement under this Agreement. SFRTA agrees to permit the BMPO, FTA, the U.S. DOT Secretary and the U.S. Comptroller General, or their duly authorized representatives, to inspect all work, materials, payrolls, and other data and records and to conduct performance and/or financial audits of SFRTA books, records and accounts pertaining to the Section 5307 grant expenditures for this Project.
- 13.2 SFRTA shall be responsible for meeting the audit requirements of Part 200 – Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Award (<https://www.gpo.gov/fdsys/granule/CFR-2017-title2-vol1/CFR-2017-title2-vol1-part200>), and any further revision or supplement

thereto. SFRTA agrees that the audit will be conducted in accordance with U.S. Government Accountability Office (U.S. GAO) "Government Auditing Standards." Upon the BMPO's request, SFRTA must submit a copy of its audit, completed in accordance with the above-described requirements, within 30 days after completion of the audit, but no later than one year after the end of the audit period.

13.3 SFRTA and any of its contractors or subcontractors shall preserve and make available, at reasonable times for examination and audit by the BMPO, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, as may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by SFRTA to be applicable to SFRTA's and its subcontractors' records, SFRTA and its subcontractors shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by SFRTA or its subcontractors.

13.4 Failure or refusal by the SFRTA to comply with Chapter 119, Florida Statutes, shall be grounds for immediate unilateral cancellation of this Agreement by the BMPO.

Section 119.0701(2)(a), Florida Statutes

IF SFRTA HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO SFRTA'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

Custodian of Records: David Clark
Mailing address: Broward Metropolitan Planning Organization
100 West Cypress Creek Road, Suite 650
Fort Lauderdale, Florida 33309
Telephone number: (954) 876-0043
Email: Clarkd@browardmpo.org

ARTICLE 14
NONDISCRIMINATION

- 14.1 In accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 52 U.S.C. Section 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. Section 12132, Federal transit law, 49 U.S.C. Section 5332, and implementing regulations; SFRTA will not discriminate against any employee, applicant for employment, or contractor hired, or any passenger provided transit service because of race, color, religion, national origin, ancestry, sex, age, or disability.
- 14.2 Contract Assurance: Neither SFRTA nor any of its contractors or subcontractors may discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. SFRTA shall carry out all applicable requirements of 49 CFR Part 26 in the award and administration of this US Department of Transportation-assisted Agreement. Failure by SFRTA to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or any other remedy allowed by law.

ARTICLE 15
MISCELLANEOUS

15.1 THIRD PARTY OBLIGATIONS / BENEFICIARIES

15.1.1 SFRTA shall be liable to third parties with whom it enters into contracts to effectuate the purposes of the Section 5307 grant for the Project. SFRTA shall pay directly such parties for all amounts due under said contracts consistent with the Florida's Prompt Payment Act.

15.1.2 Neither SFRTA nor the BMPO intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

15.2 NOTICES

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last

specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

For SFRTA:

South Florida Regional Transportation Authority
Executive Director
801 NW 33rd St
Pompano Beach, FL 33064

With a copy to:

Teresa Moore, Esq.,
SFRTA General Counsel
801 NW 33rd St
Pompano Beach, FL 33064

For BMPO:

Executive Director
Broward Metropolitan Planning Organization
100 West Cypress Creek Road, Suite 650
Fort Lauderdale, Florida 33309

With a copy to:

Alan L. Gabriel, Esq.
BMPO General Counsel
200 East Broward Blvd., Suite 1900
Fort Lauderdale, Florida 33301

15.3 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any right or interest created herein shall be assigned, transferred, or encumbered without the prior written consent of the other party. The references herein to the Federal Transit Administration or FTA shall include any successor department of the United States Government.

15.4 COMPLIANCE WITH LAWS

Parties shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

15.5 SEVERANCE

In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless SFRTA or the BMPO elect to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

15.6 JOINT PREPARATION

Each party and its counsel have participated fully in the review and revision of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

15.7 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of Articles 1 through 15 of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 15 shall prevail and be given effect; provided, however, anything in this Agreement to contrary, the Master Agreement and all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement.

15.8 JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, the BMPO AND SFRTA HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

15.9 AMENDMENTS

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the SFRTA Board and the BMPO Governing Board or others delegated authority to or otherwise authorized to execute same on their behalf.

15.10 PRIOR AGREEMENTS

This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

15.11 INCORPORATION BY REFERENCE

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. Exhibits "A" and "B" as referenced herein are incorporated into and made a part of this Agreement.

15.12 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he/she is, on the date he/she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

15.13. Multiple Originals - Multiple copies of this Agreement may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document

15.14 Number and Gender - Whenever used herein, unless the context otherwise provides, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all other genders.

15.15 Severability and Legal Construction - In the event any one or more of the provisions contained in this Agreement shall be for any reason held to be invalid,

illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision(s), and the Parties agree to amend this Agreement to cure any invalid, illegal, or unenforceable provision(s) to carry out as near as possible the original intent of the Parties.

- 15.16 The Parties acknowledge that this Agreement is an "arm's length" agreement, entered into by BMPO and the SFRTA freely, without duress, coercion, or any undue influence. No presumption will apply in favor of any Party in the interpretation of this Agreement or in the resolution of any ambiguity of any provision of this Agreement.
- 15.17 Merger and Amendment — This instrument constitutes the entire agreement of the Parties with respect to the matters contemplated herein and it may be modified or amended only in writing, signed by all Parties hereto.
- 15.18 Nondiscrimination — In its performance of this Agreement, BMPO and the SFRTA each warrant that it will not discriminate against any person on account of race, color, sex, religious creed, age, disability, ethnic or national origin, or veteran status.
- 15.19 No Waiver — Neither of the Parties shall be deemed, by any act or omission, to have waived any of its rights or remedies unless such waiver is in writing and signed by the waiving Party, and then only to the extent specifically set forth in such writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement: **SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY** through its Governing Board, signing by and through its Chair and Executive Director, authorized to execute same by Commission action on the _____ day of _____, 2021, and **BROWARD METROPOLITAN PLANNING ORGANIZATION**, signing by and through its Chair and Executive Director, duly authorized to execute same.

**SOUTH FLORIDA REGIONAL
TRANSPORTATION AUTHORITY (SFRTA)**

By: Hal R. Valeche
Hal R. Valeche, SFRTA Chair

This 24 day of September, 2021.

Attest:
By: Steven L. Abrams
Steven L. Abrams, Executive Director

APPROVED AS TO FORM AND LEGAL SUFFICIENCY for the use and reliance of South Florida Regional Transportation Authority, Florida, only.

By: Teresa J. Moore (NMP)
Teresa Moore, SFRTA General Counsel

BMPO:

**BROWARD METROPOLITAN
PLANNING ORGANIZATION**

Attest:

By: _____
Gregory Stuart, Executive Director

__ day of _____, 2021.

By _____
Frank C. Ortis, Chair

__ day of _____, 2021.

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY FOR THE USE OF AND
RELIANCE BY THE BMPO ONLY:

By: _____
Alan L. Gabriel, BMPO General Counsel
Weiss Serota Helfman Cole & Bierman, P.L.

EXHIBIT A
Scope of Services

Regional Mobile Ticketing Solution

Funds are being requested from the BMPO to update SFTRA's Mobile Ticketing Solution and developing this into a Regional Application for Mobility.

This effort involves the following three (3) Phases/Thresholds:

1. **Update and Rebranding of Tri-Rail Mobile Ticketing Application:** This includes the re-design of the data and branding elements of the current mobile ticketing application to incorporate Tri-Rail's service into Downtown Miami at the MiamiCentral Station, and changes related to the restructuring of first and last mile solutions at Tri-Rail Stations.

Duration/Schedule: 4 - 6 months

Estimated Cost: \$100,000

2. **Implementation of Mobile Ticketing Back Office Solution:** This involves the replacement of the Miami Dade Department of Transportation & Public Works (DTPW) Transit Store back office/engine with a SFRTA solution to manage its own mobile ticketing technology processing.

Duration/Schedule: 8 - 12 months

Estimated Cost: \$300,000

3. **Regional Mobile Ticketing Solution:** SFRTA's ultimate goal is to develop a mobile ticketing solution to not only include fare offerings from regional transit partners (including Broward County Transit, Palm Tran and Miami Dade Department of Transportation and Public Works), but also to incorporate bike sharing and ride sharing services to enable door to door trip planning and purchasing (using the same independent back office acquired during Phase 2.) To this end, SFRTA will develop an open-platform solution which will allow regional partners the option of integrating their own fare products. This added convenience will provide Tri-Rail and other public transit customers the ability to plan, book and purchase multiple mobility options from both public and private transportation services.

Duration/Schedule: 12 – 24 months

Estimated Cost: \$1,150,759.10

Duration/Schedule: **36 months (due to overlapping of Phases)**

Estimated (ROM) Cost: **\$1,550,759.10**

Administrative Fee (5%): **\$81,618.90**

Total Project Cost: **\$1,632,378**