

# Exhibit A

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**AGREEMENT  
BETWEEN THE CITY OF LORAIN AND  
VENDOR**

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**AGREEMENT**

Effective as if the \_\_\_\_\_ day of \_\_\_\_\_ in the year of 2026

**BETWEEN the City:**

**The City of Lorain**  
200 West Erie Avenue  
Lorain, Ohio 44052

**The Vendor is:**

**K.E. McCartney & Associates, Inc.**  
52 North Diamond Street  
Mansfield, OH 44902

**The Project is:**

**East 36th Street Improvements –  
Planning Project**

The City of Lorain and Vendor agree as set forth below.

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THIS AGREEMENT, effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2026, between the City of Lorain, organized and existing as a political subdivision of the State of Ohio, and (“Vendor”). The City of Lorain and Vendor agree as set forth below:

WHEREAS, it is necessary to perform professional services for the (herein after known as PROJECT); and

WHEREAS, in order to perform such services, it is necessary to supplement regularly employed City of Lorain staff with outside professional consulting services; and

WHEREAS, the City of Lorain finds Vendor’s proposal acceptable and desires to hire and engage Vendor to supplement the staff of the City of Lorain and to furnish the services necessary, in accordance with the Vendor’s proposal and the terms, conditions and provisions contained herein. Vendor, pursuant to the information provided in its proposal and evaluated by the City of Lorain, has been determined to be qualified and competent to provide the required professional services;

NOW, THEREFORE, it is agreed that the City of Lorain shall and does hereby employ Vendor to perform the services as hereinafter specified; and that, for and in consideration of the mutual covenants hereinafter stipulated to be kept and performed, it is agreed by and between the parties as follows:

**Section 1. DEFINITIONS**

**1.1** “City” means the City of Lorain, Ohio.

**1.2** “Director of Public Safety/Service” means the Director of Public Safety/Service for the City of Lorain, Ohio, his/her successor, or his/her Authorized Designee.

- 1.3** “Vendor” means K.E. McCartney & Associates, Inc. (KEM)
- 1.4** “Services” means those services performed by Vendor as detailed in the Scope of Services, (Exhibit “A”) as per this Agreement.
- 1.5** “Base Agreement Price” means the Vendor’s base agreement price for Services as specified in the Scope of Services, (Exhibit “A”), and Compensation, (Exhibit “B”), excluding specific and general allowances.
- 1.6** “Agreement Modification” means changes to this original agreement as executed. Agreement Modifications require prior authorization by the Director of Public Safety/Service and approval by the City Council, and must be executed by both the City and the Vendor.
- 1.7** “General Allowance” means funds, not included in the Base Agreement Price, reserved for additional services not foreseeable at the time of scope development but necessary to complete the project to meet the City’s needs. The amount of the General Allowance is determined by multiplying the Base Agreement Price by a defined percentage as shown in Exhibit “B” Compensation.
- 1.8** “Reallocation of Funds” means a transfer of funds between tasks, as presented in Exhibit “B” – Compensation, that does not result in a change to the original Agreement Scope of Services or Total Agreement Price.
- 1.9** “Schedule Delay” means a projected or actual delay in completion of tasks, activities, or project completion that does not result in a change to the original Agreement scope of Services or Total Agreement Price.
- 1.10** “Specific Allowance” means funds, as established by the City, that are included in the Total Agreement Price for specific scope of Services tasks that are either 1) generally

known to be required for the project but whose level of effort is unknown until after select items of the base Services have been performed, or 2) pre-identified optional tasks that may or may not be required to complete the project as contemplated. The price of Specific Allowance items are usually defined with a dollar amount.

**1.11** “Total Agreement Price” means the sum of Vendor’s Base Agreement Price for the original scope of Services, Specific Allowances, and General Allowances.

**1.12** “Project” means East 36th Street Improvements – Planning Project

**Section 2. SCOPE OF SERVICES**

**2.1** Vendor does hereby promise and agree to provide the professional services as described in the Scope of Services (Exhibit “A”).

**Section 3. REPRESENTATIVES**

**3.1** Vendor shall designate and authorize an employee of Vendor to act as its agent for all purposes under this Agreement, who shall be available at all times to the representatives of the City for the purpose of notification and consultation, and who shall be designated as the Project Manager having overall responsibility for all phases of Vendor’s participation in the project. The Vendor’s Project Manager must be approved by the City, and any change in the Vendor’s Project Manager requires prior approval by the City.

**3.2** For purposes of this Agreement, the agent for the City who is authorized to bind the City and liaison officer with respect to the matters contained herein shall be the Director of Public Safety/Service or such other person designated by him.

#### **Section 4. COMPENSATION FOR VENDOR'S SERVICES**

**4.1** The City will pay the Vendor for the successful completion of the Scope of Services in Exhibit "A", subject to the terms and conditions of this Agreement, a Total Agreement Price not to exceed one million five hundred dollars (\$1,500,000). Compensation for the Services described in this Agreement will be according to the terms and methods of this Agreement and Exhibit "B" - Compensation. The approved methods for compensation are "time and materials". "Lump sum" compensation shall not be accepted. The compensation method for this Agreement is designated and further defined in Exhibit "B" – Compensation.

##### **4.1.1 Time and Materials**

Time and materials, if specified in Exhibit "B" - Compensation, is based on a combination of labor, subVendor, and direct expense costs as specified in Exhibit "B" - Compensation and defined in this Agreement.

##### **4.1.1.1 Labor Costs**

Labor costs are computed by multiplying the Vendor's billing rates (as designated in Exhibit "B" - Compensation) that comprises all overhead and profit applied to the actual labor hours worked on the Services.

##### **4.1.1.2 SubVendor Costs**

SubVendor costs (both labor - using the same cost approach as the Vendor - and direct expense costs incurred by SubVendor) are invoiced by Vendor with no markup.

##### **4.1.1.3 Direct Expense Costs**

Direct expense costs in support of delivering the Services are included on the Vendor invoice. Direct expense costs (non- labor) may include, but are not limited to, mileage, travel and lodging expenses, mail, shipping, supplies, printing and reproduction services, and other direct expenses routinely charged by Vendor to specific projects that are applicable to delivering the Services.

**4.2** The task budgets are presented in Exhibit “B” - Compensation. Task funds may be reallocated within individual tasks, as long as reallocations do not negatively affect the business opportunity program goals, upon written approval to Vendor by the City’s Project Manager or supervisors. Task funds may be reallocated between tasks, so long as the changes do not result in a change to the original Scope of Services or Total Contract Price, upon written approval by the City.

**4.3** Tasks may be modified with prior written authorization of the Director, in which case funds may be shifted from one task budget to another, in accordance with Section 4.2. In the event funds are not available to perform a modified Task, or Services are considered to be outside the original contract scope, such items will be deemed additional Services.

**4.4** Vendor shall not perform Additional Services, nor incur any expenses which are not required by this Agreement, and the City shall not be obligated to pay for such services and expenses until the following conditions have been satisfied:

**4.4.1** Submittal by Vendor of written notice to the City prior to the initiation of such additional Services, including an estimate of cost and schedule implications and a detailed scope of such Services;

- 4.4.2** Prior approval of the City's Council of the modification of this Agreement by the addition of such Services and additional compensation, if any;
- 4.4.3** If the additional Services increase the Total Agreement Price under this Agreement, certification of such additional cost by the City's Auditor;
- 4.4.4** A written modification to the Agreement; and
- 4.4.5** Written notification to Vendor from the Director directing Vendor to perform such additional Services prior to commencement of the additional Services.
- 4.5** For additional Services deemed by the City to be time critical, Vendor may commence Services with verbal authorization from the Director of Public Safety/Service.
- 4.6** Specific and general allowance funds may be utilized with prior written approval by the City.
- 4.7** Any costs which are paid by the City and are determined by a final audit or subsequent audit to be non-allowable in accordance with generally accepted cost accounting principles shall be refunded to the City. The City is exempt from all sales, use, and excise taxes and the City shall not be obligated to pay for such taxes. Upon request by Vendor, the City shall provide a copy of the City's certificate of tax exemption.
- 4.8** The Vendor shall assist the City in preparing any required permits or licenses; however City shall be responsible for paying for the permit, licenses or access fees required to complete the Services.

**Section 5. METHOD OF PAYMENT**

- 5.1** For the purpose of providing progress payments for the performance of the Services under this Agreement, Vendor will submit monthly invoices on the

City's standard invoice template and on a schedule stipulated by the City. Progress payments will be made according to the provisions in Exhibit "B" - Compensation.

**5.2** Invoices must be accompanied by backup information appropriate to the compensation method designated in Exhibit "B" – Compensation. However invoices will not be paid unless schedule updates are submitted as required in Section 6.0 - Term and Schedule.

**5.3** Vendor shall furnish a list of key personnel to be assigned to the project prior to the initial invoice. Vendor shall update this list to reflect changes in key personnel assigned to the Project as they occur and/or at the City's request. The City reserves the right to reject any personnel assigned or proposed for assignment to this project after consultation with Vendor.

**5.4** If the Time and Materials compensation method is designated in Exhibit "B" – Compensation, then Vendor shall also furnish, prior to the initial invoice, a list of all personnel expected to be assigned to the Project along with their direct "raw" hourly rates in order to facilitate processing of Vendor invoices. Vendor shall update this list to reflect changes prior to new personnel appearing on an invoice.

**5.5** If the Time and Materials compensation method is designated in Exhibit "B" – Compensation, then Vendor shall furnish the City with a list of all personnel anticipated to be authorized to incur travel, lodging, meals and related expenses. This list shall display the individuals by name, assigned location and item of expense authorized to be incurred. Vendor shall update this list to reflect additions or deletions of personnel to the project as they occur and/or at the City's request.

**5.6** All compensation procedures and invoice requirements set forth herein shall also apply to all subVendors directly contracted to the prime Vendor. Deviations from said

procedures and requirements may be allowed only after written application by the Vendor to the City and written acceptance of such deviation by the City.

**5.7** The City retains the right to limit progress payments if, in the reasonable opinion of the City, the percentage of the Total Agreement Cost billed exceeds the earned value in delivering the Services as measured by the City's earned value tracking system.

**5.8** Prior to payment of the final invoice, Vendor agrees to deliver to the City the following, if applicable to the Services:

**5.8.1** All electronic data files, plans, sketches, drawings, documents, reports, memoranda and reproducibles related to the project and as required by the City's representative. Vendor may retain one copy of any or all of the aforementioned materials for its files.

**5.8.2** Record drawings.

**5.8.3** All non-expendable personal property purchased and approved by the City as other Direct Costs.

**5.8.4** A formal written release of all claims and financial requirements arising by virtue of this Agreement, other than such claims, if any, as may be specifically exempted by Vendor from the operation of the release in stated amounts to be set forth therein.

**5.9** All accounting and financial matters relating hereto shall be processed by the City's Auditor. Payments shall be made by the City on the monthly statements only after they have been certified by the City's representatives and approved by the Director and the City Auditor. Provided the City receives the required backup documentation, the City

shall endeavor to make payment to the Vendor within thirty (30) days from the City's receipt of a monthly statement.

**5.10** No approval or payment made under this Agreement shall be conclusive evidence of the acceptance of performance under this Agreement either wholly or partially, and no payment made hereunder shall be construed to be an acceptance of deficient or unsatisfactory Services.

**5.11** Right to Inspect; Right to Audit Books. The Vendor and all subVendors shall maintain books, records, documents, and other evidence directly pertinent to performance of this Agreement in accordance with generally accepted accounting principles. Any authorized representative of the City shall, at all reasonable times and with reasonable notice, have the right to inspect and examine the drawings, specifications and other contract documents at Vendor's office during the period of their preparation. Any authorized representative of the City shall, at all reasonable times and with reasonable notice, also have the right to examine records of payments to SubVendors. Further, if the Time and Materials method of compensation is designated in Exhibit "B" – Compensation, any authorized representative of the City shall, at all reasonable times and with reasonable notice, have the right to audit, inspect and examine the Vendor's accounting books and financial records for the Project, including, but not limited to, records of hours expended, personnel utilized, payments of employee salaries, and records of payments made to SubVendors.

**5.12** In the event of a disputed invoice, only the disputed portion shall be withheld from payment by the City and the City will process the remaining undisputed portion of the invoice.

**Section 6. TERM AND SCHEDULE**

- 6.1** Vendor shall not perform any Services hereunder until receipt of written Notice to Proceed from the City. The term of this Agreement shall begin upon performance of the Services hereunder, and shall, unless extended by the City, or unless sooner canceled or terminated pursuant to the provisions hereof, expire on upon successful completion of the Services.
- 6.2** The completion of the Services in a timely and orderly manner is essential. Vendor shall perform all Services and submit deliverables required by the Agreement within the times stipulated in the approved baseline Project Schedule.
- 6.3** Vendor shall prepare and submit a baseline project schedule for City approval in accordance with the City's Schedule Guidance Document.
- 6.4** Vendor shall monthly update, status, and submit the project schedule and schedule narrative for review by the City in accordance with the City's Schedule Guidance Document. The requirement to submit schedule updates on a monthly basis may only be revised by authorization of the Director or his designee.
- 6.5** Neither party to this Agreement shall be deemed in default in the performance of its obligations if that party is prevented or delayed from performing by forces beyond its control, (hereinafter "Force Majeure") including, without limitation, acts of God or of a public enemy; acts of a municipal, state, federal or other governmental legislative, administrative or judicial entity; any catastrophe resulting from flood, fire, extreme weather conditions, explosion; labor disturbances; and other cause beyond the control of the non-performing party. Vendor may be granted a time extension and cost adjustment for its performance based on the duration of the Force Majeure.

**Section 7. STANDARDS OF PERFORMANCE, ERRORS AND OMISSION**

- 7.1** Services provided by the Vendor and all of its agents, subVendors, and employees under this Agreement shall be performed in a manner consistent with the degree of care and skill customarily accepted as good professional practices and procedures by members of the same profession.
- 7.2** The City shall not be responsible for discovering deficiencies in the technical accuracy of Vendor's Services. During the term of the Agreement, the Vendor shall be solely responsible for the accuracy of Services and shall promptly make necessary revisions or corrections to the Services performed to the extent that the necessary revisions or corrections resulted from Vendor's negligent acts, errors or omissions, without any additional compensation from the City.
- 7.3** Acceptance of Services, including payment for same, shall not relieve the Vendor of responsibility for subsequent correction of its negligent act, error or omission or for clarification of ambiguities.
- 7.4** In the event of any negligent act, error, or omission which the City determines, using a reasonableness standard, to be the responsibility of the Vendor in any phase of the service, the correction, repair or reconstruction of which may require additional field or office work or services, the Vendor shall be promptly notified and shall be required to perform such corrective Services as may be necessary without delay and without additional cost to the City. The period of re-performance for Services under this Section shall be limited to one (1) year from the time the original Services were completed. Vendor shall be reimbursed for any costs incurred for the correction, repair, or

reconstruction of which requires additional field or office work or services that have been subsequently determined not to be the responsibility of Vendor as per above.

**7.5** The City will provide to Vendor all data in City's possession relating to the Services. The Vendor shall be able to reasonably rely upon the accuracy, timeliness, and completeness of the information provided by the City, however, prior to relying upon such data and information, the Vendor shall be required to take reasonable measures to verify its accuracy, timeliness and completeness.

**7.6** The City will endeavor to review Vendor- provided reports, studies, drawings, specifications, proposals and other documentation in a timely manner and provide prompt written notice of any inconsistencies, errors or items of concern.

## **Section 8. INSURANCE AND WAIVER OF SUBROGATION**

### **8.1 INSURANCE**

**8.1.1** Liability Insurance to be provided by Vendor, Vendor's subVendors and professionals engaged by Vendor. For any Services under this Agreement, and until completion of the entire Services, the Vendor, Vendor's subVendor(s), and Professionals engaged by Vendor shall purchase and maintain, at its own expense, insurance coverage as specified below. All insurance required hereunder shall apply to and cover all loss or liability caused by, arising from, or resulting from the Services performed or required to be performed, provided or required to be provided, hereunder.

#### **8.1.1.1 Auto Liability Insurance**

Auto Liability coverage for Owned, Non-owned and Hired Auto Liability with a limit of One Million Dollars (\$1,000,000) for the Vendor and not less than Five Hundred Thousand Dollars (\$500,000) for the SubVendor(s) minimum annual combined single limit, bodily injury and property damage. Such insurance shall cover and include liability arising from all vehicles owned by, hired by, or used by or on behalf of the Vendor, Vendor's subVendors, or Professionals engaged by Vendor. The Auto Liability Insurance limit requirement can be satisfied by the purchase and maintenance of any combination of primary, excess and/or Umbrella insurance.

The City and its officials, employees, representatives, agents, and Vendors including the City's Vendors for the Project shall be named as additional insureds on the Vendor's, Vendor's subVendor's(s'), and Professional's(s') engaged by Vendor Automobile Liability policies. The extent of the additional insured coverage shall be no less broad than that provided under ISO Form CA 20 48 02/99 for Auto Liability, or a substitute form providing equivalent coverage.

#### **8.1.1.2 Workers' Compensation**

Workers' Compensation with statutory limits. Employers Liability with an annual limit of One Million Dollars (\$1,000,000) bodily injury by accident, each accident, One Million Dollars (\$1,000,000) bodily injury by disease, each employee, and One Million Dollars (\$1,000,000) bodily injury by disease, policy aggregate minimum coverage including

defense of an allegation against the employer for injury believed to have been substantially certain to occur. The Vendor, Vendor's subVendor(s), and Professionals engaged by Vendor shall subscribe to and comply with, throughout all phases of the Project, the Workers' Compensation laws of the State of Ohio. The Employers Liability insurance requirement may be satisfied by including such coverage within the General Liability policy.

**8.1.1.3 General Liability Insurance**

Commercial General Liability insurance on an occurrence coverage basis (including without limitation, bodily injury, personal injury and advertising injury, property damage, and broad-form contractual liability arising from or relating to this Agreement, coverage as respects independent contractors, operating mobile equipment, products and completed operations, explosion, collapse and underground hazards) of the following amounts:

(a) Vendor's General Liability (occurrence basis, limits per occurrence and annual aggregate):

\$2,000,000 General Aggregate  
\$2,000,000 Products/Completed Operations Aggregate  
\$1,000,000 Personal Injury and Advertising Injury  
\$1,000,000 Bodily Injury and Property Damage Limit -  
Each Occurrence

(b) Vendor's Vendor(s) and Professionals engaged by the Vendor's General Liability (occurrence basis, limits per occurrence and annual aggregate):

\$2,000,000 General Aggregate

\$2,000,000 Products/Completed Operations Aggregate  
\$1,000,000 Personal Injury and Advertising Injury  
\$1,000,000 Bodily Injury and Property Damage Limit -  
Each Occurrence

The City and its officials, employees, representatives, agents, and City's Vendors for the Project shall be named as additional insureds on the Vendor's, Vendor's subVendor's(s'), and Professionals' engaged by the Vendor Commercial General Liability policies (including Employers Liability) and Excess/Umbrella Liability. The extent of the additional insured coverage shall be no less broad than that provided under ISO Form CG 20 26 11/85 for General Liability, or substitute form providing equivalent coverage. The additional insured coverage afforded under the Vendor's, Vendor's subVendor's(s') and Professionals' engaged by the Vendor policies shall include both ongoing operations (services in progress) and completed operations (completed services). All coverage shall be maintained for a minimum of three (3) years after expiration of this Agreement. The General Liability Insurance limit requirement can be satisfied by the purchase and maintenance of any combination of primary, excess and/or Umbrella insurance Commercial General Liability and Umbrella/Excess limits of liability (including Product/Completed Operations coverage) shall apply on a per project basis.

**8.1.1.4 Professional Liability Insurance**

Vendor, Vendor's subVendor's(s) and Professionals engaged by the Vendor shall purchase and maintain in force Professional Liability insurance (including contractual liability coverage) covering liability and damages arising out of or resulting from Vendor's professional services rendered, or which should have been rendered, pursuant to this Agreement. Each of Vendor's subVendor(s) or Professionals engaged by Vendor who are required to render or provide professional services pursuant to this Agreement and/or the contract between the Vendor, Vendor's subVendor(s) or Professionals engaged by Vendor, or at any other subVendor level, shall purchase and maintain Professional Liability insurance coverage with limits of liability and coverage requested herein.

(a) Vendor's Professional Liability limits of not less than:

\$1,000,000 Annual Aggregate

\$1,000,000 Per claim

(b) Vendor's subVendor(s) and Professionals engaged by Vendor Professional Liability limits of not less than:

\$1,000,000 Annual Aggregate

\$1,000,000 Per claim

Professional Liability insurance may be written on a claims-made basis provided such policy shall either (i) be renewed annually for a period of not fewer than three (3) years following expiration of this Agreement with substantially the same terms and conditions or (ii) include an extended reporting period endorsement or clause providing not less than

three (3) years within which a claim may be made under the policy respecting the Vendor's, Vendor's subVendor(s) or Professionals engaged by Vendor performance of Services; the cost of coverage for such three (3) year period shall be borne exclusively by the Vendor, Vendor's subVendor(s), or Professionals engaged by Vendor as the case may be.

## **8.2** Property Insurance

The Vendor shall purchase and maintain Property insurance covering construction machinery, equipment, special equipment, false work, scaffolding, materials, mobile equipment, valuable papers, trailers, and tools used or owned by the Vendor in the performance of the Services. The Vendor also agrees to require Vendor's subVendor(s) and Professionals engaged by Vendor to insure any and all property listed above used or owned by the Vendor's subVendor(s) or Professionals engaged by Vendor in the performance of the Services. City shall in no circumstance be responsible or liable for the loss or damage to, or disappearance of, any property listed above used or owned by the Vendor, Vendor's subVendor(s) or Professional engaged by Vendor in the performance of the Services.

## **8.3** Insurance Coverage Requirements:

### **8.3.1** Primary Coverage

The insurance coverage to be purchased and maintained by the Vendor, Vendor's subVendor(s) and Professionals engaged by Vendor as required herein to name the City as Additional Insured shall be primary to any insurance, self-insurance, or self-funding arrangement maintained by City which shall not

contribute therewith, and there shall be severability of interests under the insurance policies required herein for all coverages provided under said insurance policies and otherwise provide cross liability coverage.

**8.3.2** Thirty Days Notice

Either the insurance coverage required of Vendor, Vendor's subVendor(s), and Professionals engaged by Vendor, or the Vendor, Vendor's subVendor(s), or Professionals engaged by Vendor shall incorporate a provision requiring the giving of written notice to City, Vendor, and to any other person(s) or party(ies) reasonably designated by City, at least thirty (30) days (except when due to non-payment of premium) prior to the cancellation, non-renewal, and/or material modification of any insurance policy required to be purchased and maintained pursuant to this Agreement. Vendor, Vendor's subVendor(s), and Professionals engaged by Vendor shall promptly notify City of a downgrade in the AM Best Company rating of any insurance company providing the insurance coverage for Vendor, Vendor's subVendor(s) and/or Professionals engaged by Vendor.

**8.3.3** Financial Strength

The insurance coverage required of Vendor, Vendor's subVendor(s), and Professionals engaged by Vendor herein shall be placed and maintained until expiration of this Agreement with insurance companies rated at least A-, Financial Size Category of at least VII, by A.M. Best Company, licensed or otherwise authorized and able to do business in Ohio.

**8.3.4** Vendor(s) and Professionals engaged by Vendor Insurance. Vendor shall not sublet or subcontract any part of this Agreement without assuming absolute

responsibility for requiring and taking actions to know that each Vendor's subVendor(s) and Professionals engaged by Vendor (and each subVendor at every tier) purchase and maintain the types of insurance required hereby with the same terms and conditions as herein required of the Vendor and the limits of liability herein required of Vendor's subVendor(s) and Professionals engaged by Vendor. Failure of Vendor, Vendor's subVendor(s), or Professionals engaged by Vendor to purchase and maintain insurance for a minimum of three (3) years after expiration of this Agreement shall be deemed a material breach of this Agreement, allowing the City, in addition to all other remedies available to City under this Agreement, at law and/or in equity, to terminate this Agreement or to provide insurance at the Vendor's sole expense, in neither case, however, shall the Vendor's liability hereunder be lessened.

**8.3.5** Notice of Occurrence

Upon Vendor's knowledge of any actual or alleged occurrence, event, or third-party claim(s) which may result in or give rise to a claim against liability imposed upon, or loss suffered by Vendor, Vendor's subVendor(s), or Professionals engaged by Vendor related to the Project, and which may exceed One Million Dollars (\$1,000,000), Vendor shall (i) immediately provide the City with written notice of such occurrence, event or third-party claim(s) with reasonable detail; this requirement applies irrespective of when, where, or how the claim, liability, or loss occurred, whether or not the claim, liability or loss relates to or arises from the Vendor's, Vendor's subVendor(s) or Professionals engaged by Vendor Services, or the validity or status of such claim, liability or

loss, and applies to the entire Contract term and the three (3) years following expiration of this Agreement; and (ii) all such notice shall be issued in accordance with this Agreement.

**8.3.6 Evidence of Insurance**

Vendor shall submit to the City within ten (10) Calendar Days after City's notice of Contract award and prior to Date of Commencement, certificates of insurance evidencing the effectiveness of the insurance policies required by this Agreement. The Project Site shall be identified on the certificate(s) and the certificate(s) and policies shall be delivered to City pursuant to the terms of this Agreement.

At any time during the term of this Agreement and annually (measured from the Date of Commencement) for a period of three (3) years following expiration of this Agreement, the Vendor shall promptly provide certificates of insurance to the City evidencing the effectiveness of the insurance coverages required pursuant to this Agreement, including all endorsements no less frequently than upon the renewal of any insurance coverage required by this Agreement. All endorsements to or modifications of insurance purchased and maintained by the Vendor, Vendor's subVendor(s) and Professionals engaged by Vendor pursuant to this Agreement shall be subject to City's review and final acceptance. City's review, receipt and/or acceptance of any insurance policy purchased and maintained by the Vendor, Vendor's subVendor(s), or Professionals engaged by the Vendor or a certificate of insurance evidencing such insurance, shall not constitute nor be deemed to constitute City's approval

of such insurance or City's agreement that such insurance satisfies the insurance requirements set forth in this Agreement.

**8.3.7** Compliance

If any insurance purchased and maintained by the Vendor, Vendor's subVendor(s) or Professionals engaged by Vendor pursuant to this Contract contains a warranty or other clause providing that coverage is null and void (or words to that effect), or otherwise reduced in scope or limit if the Vendor, Vendor's subVendor(s), or Professionals engaged by Vendor does not comply with the regulations or statutes governing the Project, such policy or policies shall be modified or endorsed so that coverage shall be afforded in all cases except for the Vendor's, Vendor's subVendor(s) and Professionals engaged by Vendor intentional or willful non-compliance with Applicable Laws.

**8.3.8** No Limitation

The types and limits of insurance to be purchased and maintained by the Vendor, Vendor's subVendor(s) or Professionals engaged by Vendor pursuant to these Contract Document shall not be deemed to constitute a limitation of the Vendor's, Vendor's subVendor's(s'), Professionals' engaged by Vendor liability hereunder or otherwise, or otherwise to limit or affect the Vendor's indemnification obligations hereunder; by requiring insurance herein, City does not represent or warrant that coverage and limits will be adequate or sufficient to protect the Vendor, Vendor's subVendor(s) or Professionals engaged by Vendor.

**8.3.9 Purchase of Insurance**

If the Vendor, Vendor's subVendor(s), or Professionals engaged by Vendor fail(s) to purchase and maintain, or fail to continue in force throughout the term of this Agreement and until expiration of this Agreement and where required herein, for the minimum of three (3) years after expiration of this Agreement, insurance in the types and with limits of liability required herein, City may purchase such insurance and the cost thereof shall be borne by the Vendor, and shall be deducted from any amounts due and owing by the City to the Vendor. If such amounts are insufficient, the Vendor agrees to promptly pay the City the amount incurred by the City to purchase such insurance.

**8.3.10 Other Insurance**

Any insurance or any increase of limits of liability not described in this Article 3 which Vendor, Vendor's subVendor(s) and Professionals engaged by Vendor requires for their own protection shall be its own responsibility and at its own expense and shall not be considered part of the Vendor's fee for base Services or part of Vendor's Reimbursable Expenses or be subject to a request for Additional Services.

**Section 9. TERMINATION OF AGREEMENT AND THE CITY'S RIGHT TO PERFORM**

**VENDOR'S OBLIGATIONS**

**9.1 Termination for Cause and Default of Vendor**

This Agreement may be terminated by the City at any time for cause upon written notice to Vendor of such intent when either the progress or results achieved under this

Agreement are unacceptable to the City, and upon giving Vendor reasonable notice and opportunity to cure such unacceptable progress or results, which Vendor fails to perfect. In no event, shall the reasonable notice be less than thirty (30) calendar days.

**9.2** If this Agreement is cancelled by the City prior to completion, Vendor, within ten (10) working days of such cancellation, shall submit a certified final progress report of the percentage of Services completed by the date of cancellation. The City shall pay Vendor for the Services completed as certified in this statement and as approved by the Director of Public Safety/Service. Notwithstanding any other provision of this Agreement, all records, documents, materials, equipment, and working papers prepared or purchased as part of the Services under this Agreement shall become and remain the property of the City, and upon any such cancellation, Vendor shall turn over to the City all records, documents, working papers, equipment and other materials which should be necessary, in the opinion of the City, to maintain continuity in progress of the Services by another Vendor. The City shall allow the Vendor to retain copies for their records, if Vendor chooses to do so.

**9.3** Upon the occurrence and during the continuance of an event of default, the City may, but shall not be obligated to, take such actions as the City deems reasonable in order to cure the act or omission of Vendor that is the basis of the default, and the Total Contract Price shall be reduced by the cost to the City of taking such actions. Costs associated with the start-up and shut-down of the Services shall be at Vendor's expense.

**9.4** This Agreement may be terminated by Vendor for event of default by the City, which would include failure to perform a material obligation and non-payment by City, upon thirty (30) days written notice, based upon the breach provisions as contained in this

Agreement. Within ten (10) working days, Vendor shall submit a certified final progress report of the percentage of Services completed by the date of the termination. The City shall pay Vendor for the Services completed as certified in the statement and approved by the Director of Public Safety/Service.

**9.5** Termination without Cause

The City may terminate this Agreement without cause upon thirty (30) days written notice. If the City terminates this Agreement without cause it shall make payment to Vendor for Services performed prior to the date of termination and reasonable demobilization costs, including any reimbursable expenses, if any then due, which shall be subject to the City's review and approval, and which shall not be unreasonably withheld. Vendor shall, as a condition of receiving the payments referred to in this Section 9, execute and deliver all such documents and take all such steps, including the legal assignment of its contractual rights, as the City may require for the purposes of fully vesting in it the rights and benefits of Vendor under such obligations or commitments. The acceptance of payment under this Section 9 for termination by the City without cause shall constitute full and complete satisfaction of any and all damages and claims of Vendor regarding the Vendor's performance of the Services and the termination of Vendor's Services by the City.

**Section 10. WORKERS' COMPENSATION COVERAGE**

**10.1** Vendor shall at all times during the term of this Agreement subscribe to and comply with the Workers' Compensation Laws of the State of Ohio, shall pay such premiums as may be required thereunder, and shall save the City harmless from any and all

liability arising from or under said Act. It shall furnish at the time of delivery of this Agreement and at such other times as may be requested, a copy of the official certificate of receipt showing the payment hereinbefore referred.

**Section 11. INDEMNITY**

**11.1** Vendor shall be responsible for the safety of its personnel related to and during the performance of Services required by this Agreement and will take reasonable measures to ensure that it and its SubVendors provide and maintain a safe working environment. Vendor shall ensure that its employees and the employees of its SubVendors, before they begin and throughout their employment at any Project site, are made aware of the requirements of all applicable safety and health regulations including, but not limited to, Applicable Laws and are notified that compliance therewith is a condition of their continued employment. Vendor shall remove from the site any employees or SubVendors that fail to abide by applicable health and safety regulations. Vendor shall not knowingly permit a hazardous, unsafe, unhealthy or environmentally unsound condition or activity to be conducted at any Project site.

If Vendor becomes aware of any hazardous, unsafe, unhealthy or environmentally unsound condition at any Project site, it shall notify the City and take reasonable steps to eliminate, terminate, abate or rectify any condition over which Vendor has control. The City may, but is not obligated to, inspect at reasonable times, the Project site and Vendor's facilities and appropriate Project Records to ascertain Vendor's and its SubVendors' compliance with the requirements of this Agreement; provided however, neither the existence nor exercise of such right will relieve Vendor of its responsibility

for its own and its SubVendors' compliance with this Agreement, to always use due care in the performance of Services and for fulfilling all of its other obligations hereunder with respect to health and safety. Vendor shall promptly notify the City of any injury, death, loss or damage to persons, animals, or property, which is in any way related to Services performed under the Agreement, even though such occurrence was not caused or consented to by Vendor, its employees, SubVendors or agents. Smoking is prohibited at the Project site. Vendor shall monitor the City's no smoking rule with respect to its employees and SubVendors while they are working at the Project site.

**11.2** Vendor shall indemnify, save and hold the City and its officers, employees, and agents free and harmless against any and all claims, demands, actions, losses, damages, settlements, costs, charges, professional fees, or other expenses or liabilities of every kind and character arising directly or indirectly out of or relating to any and all negligent acts, errors, or omissions by the Vendor (including its employees and agents) or any ambiguities in the plans and specifications, providing that such ambiguities are originated by or the responsibility of the Vendor and to the extent that such ambiguity is the result of a negligent act, error, or omission of the Vendor in the performance of this Agreement. The Vendor shall be given the opportunity to defend on behalf of the City, any action or claim brought against it which, if successfully prosecuted, would give rise to a claim hereunder against the Vendor. This indemnification shall not result in the unjust enrichment of the City. In the case of any ambiguities, the City shall afford the Vendor a reasonable opportunity to mitigate the damage and clarify any such ambiguities within a reasonable time after discovery by

or notice to City. City shall promptly notify the Vendor of any claim, demand, action, cause of action, or other liability for which the City may seek indemnification from the Vendor. The provisions of this paragraph shall survive the termination/expiration of this Agreement

**11.3** In any and all claims against the City, Vendor or any of its members, officers, agents or employees, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Section 11 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Vendor under Workers' Compensation Acts, disability benefit acts or other employee benefit acts.

**11.4** Vendor further agrees to indemnify and hold harmless the City from claims made by employees of Vendor or employees of Vendor's subVendors and based on injuries, sickness, disease, death or disability, to the extent arising out of the professional negligence of Vendor. As between Vendor and the City, Vendor agrees that it will not assert a claim of and expressly waives any and all immunity pursuant to applicable Workers' Compensation laws, with regard to this indemnification.

## **Section 12. MBE/WBE/SBE COMPLIANCE**

**12.1** The Minority- and Women Business Enterprise ("MBE/WBE") and/or Small Business Enterprise ("SBE") subcontracting goals established for this Agreement are defined in Exhibit "D" – MBE/WBE/SBE Compliance Goals.

**Section 13. EQUAL EMPLOYMENT OPPORTUNITY**

**13.1** Vendor agrees to adopt and maintain a policy of non-discrimination in employment. It further agrees that it will comply with all applicable Federal and State laws with regard to Equal Employment Opportunity and Fair Employment Practices, and with the City's Equal Employment Opportunity Policy, Guidelines and Procedures.

**13.2** Vendor agrees to provide the City with information regarding its employment practices, in such forms as the City may prescribe; and that compliance with such requests is a condition of this Agreement.

**Section 14. WPCLF ASSISTANCE AND APPLICABILITY OF FEDERAL REQUIREMENTS**

**14.1** Should the City seek Water Pollution Control Fund (WPCLF) financing for this Agreement under the Clean Water Act, as amended, and it is the intent of the parties that the Agreement be construed in a manner most favorable to obtaining such financing.

**14.2** In the event that WPCLF financing is utilized for this Agreement, it is specifically agreed that the City Standard Clauses for WPCLF Assisted Professional Services Agreements (Exhibit "E") shall apply to this Agreement.

**Section 15. INDEPENDENT CONTRACTOR**

**15.1** Vendor shall be and remain an independent contractor with respect to all Services performed hereunder, and agrees to and does hereby accept full and exclusive liability for the payment of any and all contributions or taxes for social security, unemployment insurance, or old age retirement benefits, pensions or annuities, now or hereafter imposed under any State or Federal law which are measured by the wages,

salaries or other remuneration paid to persons employed by Vendor on Services performed under the terms of this Agreement, and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or hereafter may be issued or promulgated under said respective laws by any duly authorized State or Federal officials; and Vendor agrees to indemnify and save harmless the City from any such contribution or taxes or liability therefore.

## **Section 16. SUBVENDORS**

**16.1** Since this Agreement is made pursuant to the proposal submitted by Vendor and in reliance upon Vendor's qualifications and responsibility, Vendor shall not sublet nor shall any subVendor commence performance of any part of the Services except as specifically included in this Agreement without prior written consent of the City. In making the application for subletting any portion of the Services, Vendor shall state in writing the portion of the Services which each subVendor is to do or the material which it is to furnish, his place of business, and such other information as may be required by the City. Subletting, if permitted, shall not relieve Vendor of any of its obligations under this Agreement.

**16.2** All subVendors for Services covered by this Agreement must conform to the requirements of this Agreement.

### **16.3 Debarment**

The Vendor acknowledges the EPA regulations regarding the use of businesses which are included on the System for Award Management (SAM) database of businesses

which have been debarred, suspended or voluntarily excluded from participating in EPA assisted activities, and expressly agrees not to subcontract to any such businesses.

**Section 17. ASSIGNMENT OF AGREEMENT**

**17.1** The City and Vendor bind themselves and their successors, administrators and assigns to the other party of this Agreement and to the successors, administrators and assigns of the other party of this Agreement, in respect to all covenants of this Agreement. Except as stated above, neither the City nor Vendor shall assign, sublet or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto.

**Section 18. DISPUTE RESOLUTION**

**18.1** In the event of a dispute between the Parties for obligations under this Agreement, either Party may request the following dispute resolution process. The Parties shall continue the performance of their obligations under this Agreement notwithstanding the existence of a dispute.

**18.1.1** The Parties are committed to working with each other to resolve disputes and agree to communicate regularly so as to avoid or minimize disputes. The Parties shall first try to resolve the dispute at the level of the designated representatives in Section 3. If the Parties are unable to resolve the dispute at that level within 10 working days, the Parties shall escalate the issue to the next higher level within their respective organizations to resolve the dispute.

**18.1.2** If the Parties are unable to resolve the dispute through the above meetings, then on the written notice of either party requesting the matter may be taken to mediation, the Parties shall begin the mediation process within 20 days of such notice. The Parties shall select a mediator, who is experienced in the relevant services provided herein. The mediator shall review all documents and written statements, in order to accurately and effectively resolve the dispute. The mediator shall call a meeting between the Parties within 10 working days after mediator appointment, which meeting shall be attended by at least the respective representatives in Section 3. The Parties shall attempt in good faith to resolve the dispute. The Parties agree to follow the Uniform Mediation Act, Chapter 2710 of the Ohio Revised Code. The Parties shall share the cost of the mediator equally.

**18.1.3** Such mediation shall be non-binding between the Parties and shall be kept confidential. If the dispute is resolved and settled through the mediation process, the decision will be implemented by a written agreement signed by both Parties. If the dispute is unable to be resolved through mediation, the Parties agree to submit the dispute to the appropriate jurisdiction as per Section 20.2 below.

## **Section 19. CONSTRUCTION**

**19.1** All terms and words used in this Agreement, regardless of the number and gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context

or sense of this Agreement or any paragraph or clause herein may require, the same as if such words had been fully and properly written in the number and gender. Vendor agrees that no representations or warranties of any type shall be binding upon the City, unless expressly authorized in writing herein. In the event of any variance between the provisions of this Agreement and Vendor's Scope of Services (Exhibit "A"), the provisions of this Agreement shall govern. The headings of sections and paragraphs, if any, to the extent used herein are used for reference only, and in no way define, limit or transcribe the scope or intent of any provision hereof. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered in any number of counterparts, shall be deemed original, but such counterparts together shall constitute but one and the same instrument. Invalidation of any provisions of this Agreement or any paragraph, sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.

## **Section 20. MISCELLANEOUS**

### **20.1 Copyrights**

The Vendor acknowledges and agrees to follow the EPA requirements of 40 CFR Part 30 regarding copyrights and rights in data for any discovery or invention which arise or is developed in the course of implementing this Agreement. All specific deliverables developed under this Agreement shall become the property of the City. All work product (including pre-existing intellectual property) of the Vendor in executing the Services shall remain the property of Vendor. Any inventions, patents,

copyrights, computer software, or other intellectual property developed during the course of, or as a result of the Services shall remain the property of the Vendor.

**20.2 Remedies**

The parties agree that all claims, counter-claims, disputes and other matters in question between the City and the Vendor arising out of or relating to this Agreement, or the breach thereof, will be decided at law. This Agreement shall be governed by and interpreted according to the law of the State of Ohio.

**20.3 Defective Pricing**

The Vendor and subVendor, where appropriate, warrant that cost and pricing data submitted for evaluation with respect to negotiated agreements, lower tier subagreements, and change orders is based on current, accurate, and complete data supported by their books and records. If the City determines that any price (including profit) negotiated in connection with this Agreement, any lower tier subagreement or any amendment thereunder was increased by any significant sums because the data provided was incomplete, inaccurate, or not current at the time of submission, then such price or cost or profit shall be reduced accordingly; and the Agreement shall be modified in writing to reflect such action.

**20.4 Contingent Fees**

The Vendor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or in its discretion to deduct from the contract price or consideration,

or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fees.

**20.5** Gratuities

If the City finds after a notice and hearing that the Vendor, or any of the Vendor's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts, or otherwise), to any official, employee, or agent of the City in an attempt to secure an Agreement or favorable treatment in awarding, amending, or making any determination related to the performance of this Agreement, the City may, by written notice to the Vendor, terminate this Agreement. The City may also pursue other rights and remedies that the law or this Agreement provides.

**20.6** The Vendor shall retain all records relating to this Agreement and the Services performed for a period of five (5) years after its termination.

**20.7** Raise Grant Terms and Conditions

The Vendor acknowledges that the City and the United States Department of Transportation ("USDOT") entered into a Grant Agreement Under The Fiscal Year 2024 Raise Program ("Grant Agreement"), a copy of which is marked Exhibit F, attached hereto and made a part hereof by reference. The Vendor agrees that it, and any subvendors the Vendor engages as provided in Section 16.2 above, are to comply with the terms of the Grant Agreement, so far as applicable to the Work of the Vendor and any of its subvendors, as part of the City receiving funding from the USDOT.

**Section 21. EXHIBITS**

**21.1** It is mutually understood and agreed that all Exhibits attached hereto are made a part hereof as if fully written herein. In the case of any conflict or variance between the terms of this Agreement and the terms of referenced documents, the terms of this Agreement shall govern except for Exhibit F, which shall govern any conflict or variance to the terms of this Agreement.

The following Exhibits attached hereto are hereby incorporated with and made a part of this Agreement:

- a. Exhibit "A" – Scope of Services
- b. Exhibit "B" – Compensation
- c. Exhibit "C" – Not Used
- d. Exhibit "D" – Business Opportunity Program Compliance Goals Not Included
- e. Exhibit "E" - Standard Clauses for WPCLF Assisted Projects – Not Included
- f. Exhibit "F" - Grant Agreement Under The Fiscal Year 2024 Raise Program

IN WITNESS WHEREOF, this Agreement was entered into on the date and year first written above.

**WITNESS:**

**CITY OF LORAIN, OHIO**

\_\_\_\_\_

BY: \_\_\_\_\_

(Title): \_\_\_\_\_

\_\_\_\_\_

**WITNESS:**

**K.E. McCartney & Associates, Inc.**

\_\_\_\_\_

BY: \_\_\_\_\_

(Title): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
**Approved as to Form:**

Patrick D. Riley  
Law Director  
City of Lorain, Ohio

# EXHIBIT A/B

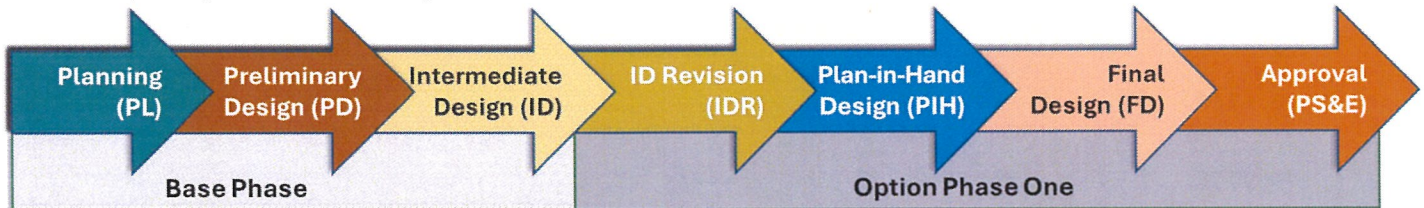
## Engineering Services Agreement

<b>Engineer:</b> K.E. McCartney & Associates, Inc. 52 N. Diamond St. Mansfield, Ohio 44902	<b>Client:</b> City of Lorain 200 West Erie Ave. Lorain, Ohio 44052
<b>Project No.</b> FHWA Award No. 693JJ326404443 City of Lorain: K.E. McCartney: GS.0904	<b>Date:</b> _____, 2026
<b>Project Name:</b> East 36 <sup>th</sup> Street Improvements – Planning Project	<b>Location:</b> Lorain County, Ohio

**Scope of Services:**

**RAISE Planning Grant – Project Development Process and Scope**

A comparison between the phasing documented in the RAISE Planning Grant contract (Base Phase and Option Phase One) and the Federal Highway Administration (FHWA) subphasing outlined in the Project Development and Design Manual is illustrated in Figure 1 below. This phasing will serve as the organizational framework for all professional design services provided for this project.



*Figure 1 - Project Phasing Comparison*

Tables 1 and 2 list the general tasks for each subphase and are not intended to be a comprehensive project scope. KEM's intention is to develop a detailed scope-of-service document for each subphase, in collaboration with the City, to ensure ongoing alignment. These subphased scope-of-service documents will offer a more detailed description of the subphase scope, an updated project schedule, and a revised budget forecast.

**RAISE Planning Grant – Schedule Baseline**

The following project schedule baseline utilizes Tables 1 and 2 to estimate the probable duration of each subphase and is meant for planning purposes only. It was created to support the two project schedule milestones documented in the RAISE Planning Grant contract.

- NEPA Completion: March 31, 2027
- Project Completion: December 31, 2027

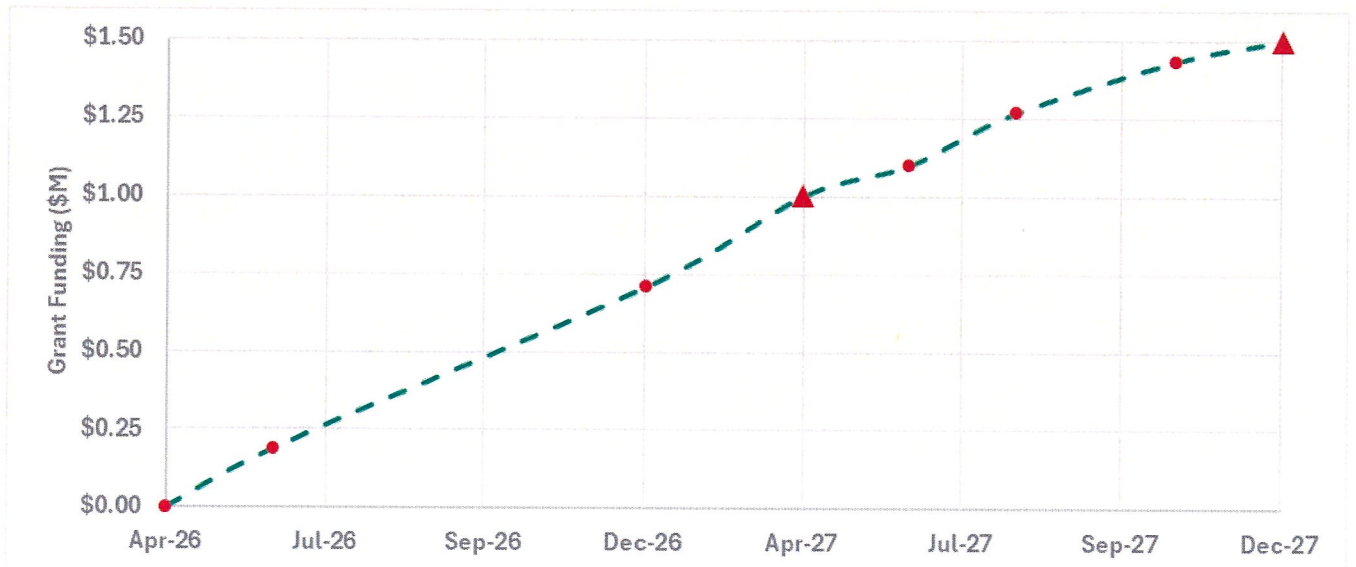
Project Schedule												
Phases / Milestones	2026			2027				2028				
Subphases	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	
Base Phase Funding									X			
NEPA Completion				X								
Option Phase 1 Funding											X	
Project Completion							X					
Planning (PL)												
Preliminary Design (PD)												
Intermediate Design (ID)												
Intermediate Design Revision (IDR)												
Plan-in-Hand Design (PIH)												
Final Design (FD)												
Approval (PS&E)												

As discussed in Section 5.3 of the U.S. Department of Transportation's General Terms and Conditions Under The Fiscal Year 2024 RAISE Program: FHWA Projects dated November 4, 2025, a milestone change to the dates listed above that is more than six months will require the City to request a modification to the RAISE Grant agreement. As discussed during the initial project meeting with the City of Lorain on March 12, 2026, KEM understands this to represent schedule flexibility to complete the milestones listed above, not to exceed six months without the City of Lorain's prior approval to pursue a modification to the RAISE Grant agreement.

### RAISE Planning Grant – Funding Expenditure Baseline

The following expenditure baseline leverages the above schedule to estimate a probable \$1.5 million Grant funding profile, in support of the two project funding milestones documented in the RAISE Planning Grant contract.

- Base Phase: \$1,000,000
- Option Phase One: \$500,000



**Table 1 – RAISE Planning Grant: Base Phase**

The subphases and tasks listed below define the high-level scope of the RAISE Planning Grant's Base Phase. The estimated task durations and general sequence were used to create the schedule baseline.

Project Scope, Phasing, and Funding							
Subphases		RAISE Planning Grant					
Tasks		Base Phase					
<b>1</b>	<b>Planning (PL)</b>						
1	Project Start-Up (Project Management Plan)	X					
2	Project Initiation Package	X					
3	Existing Data, Research, and Analysis	X					
4	Stakeholder Involvement & Public Engagement Plan	X					
5	Develop Neighborhood Transformation Framework	X					
<b>2</b>	<b>Preliminary Design (PD)</b>						
1	Perform Environmental Field Studies		X				
2	Perform Geotechnical Services		X				
3	Prepare Engineering Studies (e.g. H&H Analysis)		X				
4	Develop Corridor Alternatives (Plans & Cost Estimates)			X			
5	Perform Field Survey and Aerial Mapping		X				
6	Develop 30% Complete Plans & Cost Estimate				X		
7	Prepare and Submit Environmental Assessment (NEPA)				X		
8	Prepare Neighborhood Transformation Plan				X		
9	Perform Public Engagement				X		
10	Utility Coordination				X		
11	Railroad Coordination				X		
<b>3</b>	<b>Intermediate Design (ID)</b>						
1	Develop Right of Way Plans - Draft					X	
2	Develop 50% Complete Plans & Cost Estimate						X
3	Receive draft NEPA approval						X
4	Approve Neighborhood Transformation Plan						X
5	Perform Public Engagement						X
6	Utility Coordination						X
7	Railroad Coordination						X

Project Management Plan (PMP)

A Project Management Plan is a foundational document that outlines how a project will be executed, monitored, and completed. It brings together key elements such as objectives, scope, timelines, roles, resources, and communication methods. KEM will use it as a roadmap to stay aligned with the City of Lorain, manage risks, track progress, and make informed decisions throughout the project lifecycle. By providing structure and clarity, the plan helps ensure the project team works towards the same goals in an organized and efficient way. KEM will prepare and deliver the PMP during the Planning Subphase. The PMP will be accepted with the City of Lorain's Preliminary Subphase Authorization. Any additions or changes to the PMP will be accepted with any subsequent City of Lorain subphase authorization.

**Table 2 – RAISE Planning Grant: Option Phase One**

The subphases and tasks listed below define the high-level scope of the RAISE Planning Grant's Option Phase One. The estimated task durations and general sequence were used to create the schedule baseline.

Project Scope, Phasing, and Funding					
Subphases		RAISE Planning Grant			
Tasks		Option Phase 1			
<b>4</b>	<b>Intermediate Design Revision (IDR)</b>				
1	Update 50% Complete Plans & Cost Estimate	X			
2	Develop Right of Way Plans - Final	X			
3	Prepare Environmental Commitments & Permits (Draft)	X			
<b>5</b>	<b>Plan-in-Hand Design (PIH)</b>				
1	Develop 70% Complete Plans & Cost Estimate		X		
2	Perform Public Engagement		X		
3	Utility Coordination		X		
4	Railroad Coordination		X		
<b>6</b>	<b>Final Design (FD) *</b>				
1	Develop 95% Complete Plans & Cost Estimate			X	
2	Develop Construction Documents & Specifications			X	
3	Perform Public Engagement			X	
4	Utility Coordination			X	
5	Railroad Coordination			X	
<b>7</b>	<b>Approval (PS&amp;E) *</b>				
1	Develop 100% Complete Plans & Cost Estimate				X
2	Finalize Construction Documents & Specifications				X

\* Scope subject to the amount of grant funding remaining after the interim deliverable and project approach/priorities resulting from the Base Phase process.

**Special Conditions:**

1. Additional services are any services not listed in this Scope of Services or future Subphase Scopes of Services; and will be billed hourly on a standard hourly rate basis in effect at the time the additional services are performed, plus reimbursable expenses. Additional Services will be completed following approval by the Client.
2. Client signature, direction by Client to proceed with services, and/or issuance of a Purchase Order by the Client serves as acceptance of this agreement.
3. All permit fees are the responsibility of the Client.
4. Standard hourly rates may be adjusted annually based on changes to the Engineer's fiscal year overhead rate or in conjunction with the Ohio Department of Transportation's issuance of a revised approved overhead rate. Reimbursable expenses may be adjusted throughout the year.

**Fee Arrangement:**

Fees for general engineering services shall not exceed **\$1,500,000.00** unless authorized in writing by the Client. The total fee is based on the following distribution of compensation:

- |                                 |                 |
|---------------------------------|-----------------|
| 1. RAISE Grant Base Phase       | \$ 1,000,000.00 |
| 2. RAISE Grant Option Phase One | \$ 500,000.00   |

**Offered by: (Engineer):**

**Accepted by: (Client):**

Signature

Date

Signature

Date

Printed name / title

Printed name / title  
Signature indicates the authority to bind the Client to the terms herein

**Agreement Documents include:**

Standard Hourly Rates, Page 2.1  
Reimbursable Expenses, Page 3.1

## STANDARD HOURLY RATES

<b>K.E. McCartney 2026 Hourly Rates:</b>			
Principal / Director	\$285.00/HR	Project Engineer I	\$115.00/HR
Department Manager	\$227.00/HR	Engineer Tech III	\$122.00/HR
Project Manager IV	\$203.00/HR	Engineer Tech II	\$112.00/HR
Project Manager III	\$167.00/HR	Engineer Tech I	\$ 90.00/HR
Project Manager II	\$151.00/HR	Project Inspector II	\$125.00/HR
Project Manager I	\$125.00/HR	Project Inspector I	\$120.00/HR
Project Engineer III	\$151.00/HR	Construction Tech	\$ 70.00/HR
Project Engineer II	\$135.00/HR	Survey w/Robotics	\$144.00/HR
		Survey with 3d Scanner	\$215.00/HR
		Add. Survey Crew Member	\$ 78.00/HR
		Administrative Assistant	\$ 87.00/HR
		Field Tech III	\$110.00/HR
		Field Tech II	\$108.00/HR
		Field Tech I	\$ 92.00/HR
		CCTV Inspection	\$255.00/HR
		Drone Services	\$132.00/HR
<b>Coldwater 2026 Hourly Rates:</b>			
Principal/Technical Director	\$223.00/HR	Project Engineer 1	\$162.00/HR
Senior Engineer	\$217.00/HR	CAD Tech 2	\$152.00/HR
Senior Scientist	\$197.00/HR	Project Scientist 1	\$142.00/HR
Project Engineer 2	\$188.00/HR	CAD Tech 1	\$136.00/HR
Construction Services Manager	\$181.00/HR	Engineer Tech	\$120.00/HR
Senior CAD Tech	\$175.00/HR	Administrative	\$120.00/HR
Project Scientist 2	\$174.00/HR		
<b>ECS Limited 2026 Hourly Rates:</b>			
Principal Engineer	\$190.00/HR	DCP Technician	\$100.00/HR
Project Manager	\$140.00/HR	Asphalt Batch Plant Technician	\$85.00/HR
Proofroll/Bearing Technician	\$105.00/HR	Engineering Technician	\$75.00/HR
<b>RAMA Consulting 2026 Hourly Rates:</b>			
Principal	\$254.84/HR	Senior Engagement Coordinator	\$135.62/HR
Senior Engagement Consultant	\$208.17/HR	Engagement Coordinator	\$124.23/HR
Engagement Consultant	\$172.18/HR		
<b>Weller 2026 Hourly Rates:</b>			
Principal Project Manager	\$154.35/HR	Senior GIS Technician	\$102.00/HR
Senior Project Manager	\$123.48/HR	GIS Technician	\$92.61/HR
Senior Cultural Resource Specialist	\$102.90/HR	Cultural Resource Specialist Associate	\$66.89/HR
Senior Archaeologist	\$92.61/HR		
Standard hourly rates may be adjusted annually to reflect current cost associated with inflation and overhead expenses.			

**REIMBURSABLE EXPENSES**

<b>Project Team</b>	<b>Reimbursable Costs</b>	<b>Rate</b>	<b>Note(s)</b>
K.E. McCartney & Associates	Mileage	Current IRS Rate / Mi. or / Day	
	Survey Total Station	\$200 / Day	
	Survey 3D Scanner	\$750.00 / Day	
	Survey Lidar Drone	\$600.00 / Day	
	GIS GPS Unit	\$150.00 / Day	
	CCTV Truck	\$76.00 / Hr.	Includes one-way travel
	Imagery Drone	\$150.00 / Day	
Coldwater Consulting	Mileage	Current IRS Rate / Mi. or / Day	
	Drone	\$200.00 / \$500.00 / \$1,200.00	Day / Week / Month
	Geode Sub-Meter GNSS	\$160.00 / \$400.00 / \$960.00	Day / Week / Month
	Reach Rover	\$250.00 / \$625.00 / \$1,500.00	Day / Week / Month
	Reach Rover & Base	\$500.00 / \$1,250.00 / \$3,000.00	Day / Week / Month
	UTV	\$225.00 / \$562.50 / \$1,350.00	Day / Week / Month
ECS Limited	Mileage	Current IRS Rate / Mi. or / Day	
	DCP Rental	\$50.00 / Day	
	Nuclear Gauge	\$35.00 / Day	
	One-Point Proctor Kit	\$50.00 / Day	
	Compressive Strength, Cylinders	\$22.00 / Each	
	Grain Size Analysis w/Hydrometer	\$110.00 / Each	
	Atterberg Limits Test	\$125.00 / Each	
	Asphalt Extraction/Gradation	\$200.00 / Each	
	Rice Determination	\$185.00 / Each	
	Specific Gravity	\$60.00 / Each	
	Proctor	\$150.00 / Each	
RAMA Consulting	Mileage	Current IRS Rate / Mi. or / Day	
Weller	Mileage	Current IRS Rate / Mi. or / Day	
	GPS Unit	\$65.00 / Day	
	General Equipment use	\$20.00 / Day	

- |  |  |   |                |             |                  |        |        |             |
|--|--|---|----------------|-------------|------------------|--------|--------|-------------|
| <p><b>1. Award No.</b><br/>693JJ32640443</p>   | <p><b>2. Effective Date</b><br/>See No. 17 Below</p>   | <p><b>3. Assistance Listings No.</b><br/>20.933</p> |                |             |                  |        |        |             |
| <p><b>4. Award To</b><br/>City of Lorain<br/>200 W Erie Ave<br/>Lorain, OH 44052<br/>Unique Entity Id.: FF77VMMYHRT3<br/>TIN No.: 346001700</p>  | <p><b>5. Sponsoring Office</b><br/>U.S. Department of Transportation<br/>Federal Highway Administration<br/>Cooperative Agreements and Non-State Awards Division (HACG-30)<br/>1200 New Jersey Avenue, SE<br/>HCFA-32, Mail Drop E62-204<br/>Washington, DC 20590</p>  |   |                |             |                  |        |        |             |
| <p><b>6. Period of Performance</b><br/>Effective Date of Award –12/31/28</p>   | <p><b>7. Total Amount</b></p> <table border="0" style="width: 100%;"> <tr> <td style="width: 80%;">Federal Share:</td> <td style="text-align: right;">\$1,500,000</td> </tr> <tr> <td>Recipient Share:</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>Total:</td> <td style="text-align: right;">\$1,500,000</td> </tr> </table> |   | Federal Share: | \$1,500,000 | Recipient Share: | \$0.00 | Total: | \$1,500,000 |
| Federal Share:   | \$1,500,000  |   |                |             |                  |        |        |             |
| Recipient Share:   | \$0.00   |   |                |             |                  |        |        |             |
| Total:   | \$1,500,000  |   |                |             |                  |        |        |             |
| <p><b>8. Type of Agreement</b><br/>Grant</p>   | <p><b>9. Authority</b><br/>49 U.S.C. 6702; Infrastructure Investment and Jobs Act (Pub. L. No. 117-58, div. J, Nov. 15, 2021); Consolidated Appropriations Act, 2024 (Pub. L. 118-42, March 8, 2024)</p>   |   |                |             |                  |        |        |             |
| <p><b>10. Procurement Request No.</b><br/>HAD260028PR</p>  | <p><b>11. Federal Funds Obligated</b><br/>Base Phase: \$1,000,000</p>  |   |                |             |                  |        |        |             |
| <p><b>12. Submit Payment Requests To</b><br/>See Article 18 of the General Terms and Conditions.</p>   | <p><b>13. Payment Office</b><br/>See Article 18 of the General Terms and Conditions.</p>   |   |                |             |                  |        |        |             |
| <p><b>14. Accounting and Appropriations Data</b><br/>1580C83E50.2024.070RA19500.7001000000.41010.61006600</p>  |  |   |                |             |                  |        |        |             |
| <p><b>15. Description of Project</b><br/>This project will design approximately 3.3 miles of new and improved roadway and multi-use path. It will also design roadside, nature-based infrastructure and address over a mile of degraded stormwater channel adjacent to E. 36th Street in an area already impacted by significant flooding.</p> |  |   |                |             |                  |        |        |             |

**RECIPIENT**

**16. Signature of Person Authorized to Sign**

\_\_\_\_\_  
Signature Date  
Name: Rey Carrion  
Title: Safety/Service Director

**FEDERAL HIGHWAY ADMINISTRATION**

**17. Signature of Agreement Officer**

\_\_\_\_\_  
Signature Date  
Name: Ryan Buck  
Title: Agreement Officer

## U.S. DEPARTMENT OF TRANSPORTATION

### GRANT AGREEMENT UNDER THE FISCAL YEAR 2024 RAISE PROGRAM

This agreement is between the United States Department of Transportation (the “USDOT”) and the City of Lorain (the “Recipient”).

This agreement reflects the selection of the Recipient to receive a RAISE Grant for the 36th Street Improvements – Planning Project.

If schedule A to this agreement identifies a Designated Subrecipient, that Designated Subrecipient is also a party to this agreement, and the parties want the Designated Subrecipient to carry out the project with the Recipient’s assistance and oversight.

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 2024 RAISE Program: FHWA Projects,” dated November 04, 2025, which is available at <https://www.transportation.gov/BUILDgrants/grant-agreements>. The General Terms and Conditions reference the information contained in the schedules to this agreement. 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 SPECIAL TERMS AND CONDITIONS.

There are no special terms for this award.

**SCHEDULE A  
ADMINISTRATIVE INFORMATION**

**1. Application.**

Application Title: East 36<sup>th</sup> Street Improvements

Application Date: 2/27/2024

**2. Recipient's Unique Entity Identifier.**

See section 28.3 of the General Terms and Conditions.

**3. Recipient Contact(s).**

Kathryn Golden  
Stormwater Manager  
City of Lorain  
200 W Erie Ave  
440-204-2059  
[Kathryn\\_Golden@cityoflorain.org](mailto:Kathryn_Golden@cityoflorain.org)

**4. Recipient Key Personnel.**

Name	Title or Position
Veronica Newsome	Engineer III
Gwen Frey	Engineer II
Rey Carrion	Safety/Service Director
Jack Bradley	Mayor

**5. USDOT Project Contact(s).**

Travis Wheeler  
Agreement Officer (AO)  
Federal Highway Administration  
Cooperative Agreements and Non-State Awards Division (HACG-30)  
300 E 8TH ST STE 826  
AUSTIN TX 78701-3225  
[travis.wheeler@dot.gov](mailto:travis.wheeler@dot.gov)

and

Lishelle Wesley  
Agreement Specialist (AS)

Cooperative Agreements and Non-State Awards Division (HACG-30)  
1200 New Jersey Avenue, S.E.  
Washington, DC 20590  
[lishelle.wesley@dot.gov](mailto:lishelle.wesley@dot.gov)

and

David Snyder  
Agreement Officer Representative (AOR)  
Division Administrator  
Ohio Division  
200 North High Street, Room 328  
614-280-6896  
[David.Snyder@dot.gov](mailto:David.Snyder@dot.gov)

and

Ron Garczewski  
Project Delivery Team Leader  
Ohio Division  
200 North High Street, Room 328  
614-280-6840  
[Ron.Garczewski@dot.gov](mailto:Ron.Garczewski@dot.gov)

**6. Payment System.**

USDOT Payment System: DELPHI eInvoicing

**7. Office for Subaward and Contract Authorization.**

USDOT Office for Subaward and Contract Authorization: FHWA Office of Acquisition and Grants Management

**8. Federal Award Identification Number.**

See section 28.2 of the General Terms and Conditions.

**9. Designated Subrecipient.**

Designated Subrecipient: None

## **SCHEDULE B PROJECT ACTIVITIES**

### **1. General Project Description.**

This project will design approximately 3.3 miles of new and improved roadway and multi-use paths. It will also design roadside, nature-based infrastructure and address approximately one mile of degraded stormwater channel running adjacent to E 36th Street in an area impacted by significant flooding.

### **2. Statement of Work.**

The federal funds from the RAISE planning grant will be used to fund the following work:

#### **Base Phase:**

- Environmental Assessments and Field Data Collection –Surveying, geotechnical investigation, subsurface utility investigation, Phase I Environmental Site Assessments, wetland assessments, and any additional NEPA requirements. In addition, data collection will be done to support a full benefit-cost analysis for a future RAISE Grant application for construction. Data collection during the planning and design phase will include traffic counts to determine the vehicular benefit and emissions reduction as well as more detailed evaluation of safety improvements and associated benefits. Initial planning and conceptual design efforts will be based off the information of record (without significant field survey) including, but not limited to, aerial imagery, GIS property lines/ownership, LIDAR contours, OUPS (utility) design ticket requests, etc. Further into the Base Phase, and prior to Preliminary Design commencing, detailed field topographic survey will be completed for the enhanced project area, considering feedback received from project stakeholders in the Base Phase. Environmental studies and documentation should be completed in full as part of the Base Phase.
- Public Engagement/Outreach –Public meetings as well as neighborhood outreach, including mailers and development of educational materials. Specific engagement will be focused on understanding future usage of the proposed multi-use path and the number of users who may walk, or ride bicycles given the new path. This will also include input on the features and plantings that residents would recommend along the length of the proposed greenway section of the plan. Public input will be used to inform planning and design decisions to ensure the improvements work for the community and address merit criteria. Feedback received here will be taken into consideration as the project progresses through the process and project details will be shared with stakeholders during Option Phase 1.
- Neighborhood Transformation Plan – In addition to projects funded by the City of Lorain, there is a significant amount of redevelopment occurring in South Lorain. Creation of a master plan to leverage the ongoing public and private investment into the neighborhood will further the transformation. The draft version will be

completed in the Base Phase and future enhancement may occur during Option Phase 1.

- Preliminary Design – Hydraulic evaluation, water quality and nature-based infrastructure evaluation, final roadway alignment, review of potential alternatives, and final design recommendations will be developed as part of the preliminary design report. The preliminary design report will be used as the basis of design for the project. Initial planning and preliminary design will utilize information of record, as discussed above, whereas more detailed preliminary design will occur towards the end of the Base Phase.

### **Option Phase 1:**

- Public Engagement/Outreach –Sharing of the progress made during the Base Phase with project stakeholders.
- Detailed Design and Permitting –Development of construction drawings to be used for bidding the project; this also includes the preparation of applicable project permits so they will be ready for submittal. During the detailed design development, traffic data collection will be completed to incorporate into the final design and benefit-cost analysis. An interim deliverable will be developed for 60% for review. The final deliverables would be a complete set of drawings and specifications ready to be bid and would be subject to the amount of grant funding remaining after the interim deliverable and project approach / priorities resulting from the Base Phase process.

**SCHEDULE C  
AWARD DATES AND PROJECT SCHEDULE**

**1. Award Dates.**

Base Phase Budget Period End Date: 6/30/2028  
Option Phase 1 Budget Period End Date: 12/31/2028

Period of Performance End Date: See section 28.5 of the General Terms and Conditions

**2. Estimated Project Schedule.**

<b>Milestone</b>	<b>Schedule Date</b>
Planned NEPA Completion Date	3/31/2027
Planned Project Completion Date:	12/31/2027

**3. Special Milestone Deadlines.**

None.

**SCHEDULE D  
AWARD AND PROJECT FINANCIAL INFORMATION**

**1. Award Amount.**

RAISE Grant Amount: \$1,500,000

**2. Federal Obligation Information.**

Federal Obligation Type: Multiple

<b>Obligation Condition Table</b>		
<b>Portion of the Project</b>	<b>Portion of the RAISE Grant</b>	<b>Obligation Condition</b>
Base phase	\$1,000,000	
Option phase 1	\$500,000	Upon confirmation that all applicable Federal requirements have been met.

**3. Approved Project Budget.**

	<b>Eligible Project Costs</b>		
	<b>Base Phase</b>	<b>Option Phase 1</b>	<b>Total</b>
RAISE Funds:	\$1,000,000	\$500,000	\$1,500,000
Other Federal Funds:	\$0	\$0	\$0
Non-Federal Funds:	\$0	\$0	\$0
<b>Total:</b>	<b>\$1,000,000</b>	<b>\$500,000</b>	<b>\$1,500,000</b>

**4. Cost Classification Table**

<b>Cost Classification</b>	<b>Total Costs</b>	<b>Non-RAISE Previously Incurred Costs</b>	<b>Eligible Costs</b>
Architectural and engineering fees	\$1,500,000		<b>\$1,500,000</b>
<b>Project Total</b>	<b>\$1,500,000</b>		<b>\$1,500,000</b>

**5. Approved Pre-award Costs**

**None.** The USDOT has not approved under this award any pre-award costs under 2 CFR 200.458.

**SCHEDULE E  
CHANGES FROM APPLICATION**

**Scope:** No Changes

**Schedule:**

Due to extended interagency coordination not accounted for in the original schedule and to allow for two years of planning and design implementation, the project is now expected to be complete by December 31, 2027

The table below compares the Project milestone dates.

<b>Milestone</b>	<b>Application</b>	<b>Schedule C</b>
Planned Project Completion Date:	July 31, 2026	December 31, 2027

**Budget:** No Changes

**Other:** N/A

**SCHEDULE F  
RAISE PROGRAM DESIGNATIONS**

**1. Urban or Rural Designation.**

Urban-Rural Designation: Rural

**2. Capital or Planning Designation.**

Capital-Planning Designation: Planning

**3. Historically Disadvantaged Community/Area of Persistent Poverty Designation.**

HDC/APP Designation: Yes

**4. Funding Act.**

Funding Act: IIJA

**5. Security Risk Designation.**

Security Risk Designation: Low

**SCHEDULE G**  
**RAISE PERFORMANCE MEASUREMENT INFORMATION**

**Reserved.**

**SCHEDULE H  
LABOR AND WORK**

**1. Efforts to Support Good-Paying Jobs and Strong Labor Standards**

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

X	The Recipient or a project partner promotes robust job creation by supporting good-paying jobs directly related to the project with free and fair choice to join a union. <i>(Describe robust job creation and identify the good-paying jobs in the supporting narrative below.)</i>
	The Recipient or a project partner will invest in high-quality workforce training programs such as registered apprenticeship programs to recruit, train, and retain skilled workers, and implement policies such as targeted hiring preferences. <i>(Describe the training programs in the supporting narrative below.)</i>
	The Recipient or a project partner will partner with high-quality workforce development programs with supportive services to help train, place, and retain workers in good-paying jobs or registered apprenticeships including through the use of local and economic hiring preferences, linkage agreements with workforce programs, and proactive plans to prevent harassment. <i>(Describe the supportive services provided to trainees and employees, preferences, and policies in the supporting narrative below.)</i>
	The Recipient or a project partner will partner and engage with local unions or other worker-based organizations in the development and lifecycle of the project, including through evidence of project labor agreements and/or community benefit agreements. <i>(Describe the partnership or engagement with unions and/or other worker-based organizations and agreements in the supporting narrative below.)</i>
	The Recipient or a project partner will partner with communities or community groups to develop workforce strategies. <i>(Describe the partnership and workforce strategies in the supporting narrative below.)</i>
	The Recipient or a project partner has taken other actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards. <i>(Describe those actions in the supporting narrative below.)</i>
	The Recipient or a project partner has not yet taken actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards but, before beginning construction of the Project, will take relevant actions described in schedule B. <i>(Identify the relevant actions from schedule B in the supporting narrative below.)</i>

	The Recipient or a project partner has not taken actions related to the Project to improve good-paying jobs and strong labor standards and will not take those actions under this award.
--	--

**2. Supporting Narrative.**

The City of Lorain always promotes job creation and supports good-paying jobs. The City will be procuring a consultant to provide the environmental assessments, public engagement and outreach, a neighborhood transformation plan, as well as preliminary and final design and permitting work for this project.

Additionally, as this planning effort supports a future capital construction project along the E. 36th Street corridor, it serves as a pipeline for creating additional good-paying construction jobs in the region and fostering long-term economic development opportunities within the corridor.

**U.S. DEPARTMENT OF TRANSPORTATION  
GENERAL TERMS AND CONDITIONS UNDER THE  
FISCAL YEAR 2024 RAISE PROGRAM:  
FHWA PROJECTS**

Revision date: November 4, 2025

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## GENERAL TERMS AND CONDITIONS

The Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021), and the Consolidated Appropriations Act, 2024, Pub. L. No. 118-42 (March 8, 2024) appropriated funds to the United States Department of Transportation (the “**USDOT**”) for fiscal year 2024 under the heading “National Infrastructure Investments.” The funds are available to carry out 49 U.S.C. 6702 by providing 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 Rebuilding American Infrastructure with Sustainability and Equity Program (the “**RAISE Program**”).

On November 30, 2024, the USDOT posted a funding opportunity at Grants.gov with funding opportunity title “FY 2024 National Infrastructure Investments” and funding opportunity number DTOS59-24-RA-RAISE. The notice of funding opportunity posted at Grants.gov, as amended on February 23, 2024, (the “**NOFO**”) solicited applications for Federal financial assistance under the fiscal year 2024 RAISE Program. On June 26, 2024, the USDOT announced application selections under the NOFO.

These general terms and conditions are incorporated by reference in a project-specific agreement under the fiscal year 2024 RAISE Program. The term “Recipient” is defined in the project-specific portion of the agreement. The project-specific portion of the agreement includes schedules A through H. The project-specific portion of the agreement may include special terms and conditions in project-specific articles.

### ARTICLE 1 PURPOSE

**1.1 Purpose.** The purpose of this award is to fund an eligible project that will have a significant local or regional impact and improve transportation infrastructure. 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 schedule D.

## **ARTICLE 2 USDOT ROLE**

### **2.1 Division of USDOT Responsibilities.**

- (a) The Office of the Secretary of Transportation is responsible for the USDOT's overall administration of the RAISE Program, the approval of this agreement, and any modifications to this agreement under section 20.1.
- (b) The Federal Highway Administration (the "FHWA") will administer this agreement on behalf of the USDOT. In this agreement, the "**Administering Operating Administration**" means the FHWA.

### **2.2 USDOT Program Contacts.**

FHWA RAISE Program Manager  
Federal Highway Administration  
Office of Freight Management and Operations  
1200 New Jersey Avenue SE  
Room E84-429  
Washington, DC 20590  
(202) 366-2639 or (202) 366-1200  
[FHWA-TIGER.Reports@dot.gov](mailto:FHWA-TIGER.Reports@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  
[BUILDGrants@dot.gov](mailto:BUILDGrants@dot.gov)

## **ARTICLE 3 RECIPIENT ROLE**

### **3.1 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) schedule E documents all material changes in the information contained in that application.

**3.2 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 costs listed in section 3 of schedule D and the RAISE Grant Amount listed in section 1 of schedule D is 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 3 and in section 21.7 on behalf of the Recipient.

**3.3 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.

**3.4 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.

**3.5 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 promptly, in a manner acceptable to the USDOT, 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.

**3.6 Notification of Changes to Key Personnel.** The Recipient shall notify USDOT within 30 calendar days of any change in key personnel who are identified in section 4 of schedule A.

**3.7 Subaward to Designated Subrecipient.** If section 9 of schedule A identifies a Designated Subrecipient:

- (1) the Recipient hereby awards a subaward to the Designated Subrecipient for the purpose described in section 1.1;
- (2) the Recipient and the Designated Subrecipient may enter into a separate agreement, to which the USDOT is not a party, assigning responsibilities, including administrative and oversight responsibilities, among the Recipient and the Designated Subrecipient; and
- (3) for the purpose of 2 CFR parts 200 and 1201, the Recipient is a pass-through entity.

**3.8 Designated Subrecipient Statements and Responsibilities.** If section 9 of schedule A identifies a Designated Subrecipient:

- (1) the Designated Subrecipient affirms all statements and acknowledgments that are attributed to the Recipient under sections 3.1 and 3.2; and
- (2) the Designated Subrecipient assumes the Recipient's reporting obligations under articles 7 and 8.

**3.9 Title 23 Oversight Responsibilities for Subawards.** If section 9 of schedule A identifies a Designated Subrecipient, then for the purpose of 23 U.S.C. 106(g), the Recipient shall act as if funds under this award are Federal funds under title 23, United States Code.

#### **ARTICLE 4 AWARD AMOUNT AND FEDERAL OBLIGATION**

**4.1 Federal Award Amount.** The USDOT hereby awards a RAISE Grant to the Recipient in the amount listed in section 1 of schedule D as the RAISE Grant Amount.

**4.2 Federal Funding Source.**

- (a) If section 4 of schedule F identifies the Funding Act as "IIJA," then the RAISE Grant is from RAISE Program funding that was appropriated in division J of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021).

- (b) If section 4 of schedule F identifies the Funding Act as “FY2024,” then the RAISE Grant is from RAISE Program funding that was appropriated in the Consolidated Appropriations Act, 2024, Pub. L. No. 118-42 (March 8, 2024).
- (c) If section 4 of schedule F contains a table that lists separate amounts for “IIJA” and “FY2024,” then the amount listed for “IIJA” is from RAISE Program funding that was appropriated in division J of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021) and the amount listed for “FY2024” is from RAISE Program funding that was appropriated in the Consolidated Appropriations Act, 2024, Pub. L. No. 118-42 (March 8, 2024).

### **4.3 Federal Obligations.**

- (a) If the Federal Obligation Type identified in section 2 of schedule D is “Single,” then this agreement obligates for the budget period the amount listed in section 1 of schedule D as the RAISE Grant Amount and sections 4.3(c)–4.3(h) do not apply to this agreement.
- (b) If the Federal Obligation Type identified in section 2 of schedule D is “Multiple,” then an amount up to the RAISE Grant Amount listed in section 1 of schedule D will be obligated with one initial obligation and one or more subsequent, optional obligations, as described in sections 4.3(c)–4.3(h).
- (c) The Obligation Condition Table in section 2 of schedule D allocates the RAISE Grant among separate portions of the Project for the purpose of the Federal obligation of funds. The scope of each portion of the Project that is identified in that table is described in section 2 of schedule B.
- (d) This agreement obligates for the budget period only the amounts allocated in the Obligation Condition Table in section 2 of schedule D to portions of the Project for which that table does not list an obligation condition.
- (e) This agreement does not obligate amounts allocated in the Obligation Condition Table in section 2 of schedule D to portions of the Project for which that table lists an obligation condition. The parties may obligate the amounts allocated to those portions of the Project only as described in section 4.3(f) or by modifying this agreement under article 20.
- (f) For each portion of the Project for which the Obligation Condition Table in section 2 of schedule D lists an obligation condition, the amount allocated in that table to that portion of the Project is obligated if, not later than the statutory lapse date identified in the Project-Specific Agreement as applicable to the Grant Program, the parties execute an instrument, in the form provided in Exhibit D, documenting that:
  - (1) the USDOT determines that the obligation condition listed in that table for that portion of the Project is satisfied;

- (2) the USDOT determines that all applicable Federal requirements for obligating the amount are satisfied; and
  - (3) the Recipient states that it is not required to request a modification of this agreement under article 5.
- (g) The Recipient shall not request reimbursement of costs for a portion of the Project for which the Obligation Condition Table in section 2 of schedule D lists an obligation condition, unless the amount allocated in that table to that portion of the Project is obligated under section 4.3(f).
- (h) RAISE Program funding that was appropriated in division J of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021), lapses and is unavailable for obligation, by statute, after September 30, 2028. RAISE Program funding that was appropriated in the Consolidated Appropriations Act, 2024, Pub. L. No. 118-42 (March 8, 2024) will not lapse and remains available for obligation until expended. Section 4.2 identifies the specific source or sources of funding for this award.
- (i) The Recipient acknowledges that:
- (1) the USDOT is not liable for payments for a portion of the Project for which the Obligation Condition Table in section 2 of schedule D lists an obligation condition, unless the amount allocated in that table to that portion of the Project is obligated under section 4.3(f);
  - (2) any portion of the RAISE Grant that is not obligated under this section 4.3 by the statutory lapse date identified in section 4.3(h) for those funds lapses on the day after that date and becomes unavailable for the Project; and
  - (3) the USDOT may consider the failure to obligate funds by the statutory lapse date identified in section 4.3(h) for those funds to be a basis for terminating this agreement under section 17.1.

## **ARTICLE 5 STATEMENT OF WORK, SCHEDULE, AND BUDGET CHANGES**

- 5.1 Change Notification Requirement.** The Recipient shall notify USDOT within 30 calendar days of any change in circumstances or commitments that adversely affect the Recipient's capacity or intent to complete the Project in compliance with this agreement. In that notice, the Recipient shall describe the change and what actions the Recipient has taken or plans to take to ensure completion of the Project. The notification requirement under this section 5.1 is separate from any requirements under this article 5 that the Recipient request modification of this agreement.

**5.2 Scope and Statement of Work Changes.** If the Project’s activities differ from the activities described in schedule B, then the Recipient shall request a modification of this agreement to update schedule B.

**5.3 Schedule Changes.** If one or more of the following conditions are satisfied, then the Recipient shall request a modification of this agreement to update schedule C:

- (1) a completion date for the Project or a component of the Project is listed in section 2 of schedule C and the Recipient’s estimate for that milestone changes to a date that is more than six months after the date listed in section 2 of schedule C;
- (2) a schedule change would require the budget period to continue after the final budget period end date listed in section 1 of schedule C (i.e., for projects with multiple phases, changes to the base phase budget period end date for projects with two phase, or changes to base or secondary phase budget period end dates for projects with three phases, etc., will not trigger notification/modification requirements); or
- (3) the USDOT Payment System identified in section 6 of schedule A is “DELPHI eInvoicing” and a schedule change would require the period of performance to continue after the period of performance listed on page 1, line 6 of the project-specific agreement.

For other schedule changes, the Recipient shall follow the applicable procedures of the Administering Operating Administration and document the changes in writing.

**5.4 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 schedule D if, in comparing the Project’s budget to the amounts listed in section 3 of schedule D:
  - (1) the total “Non-Federal Funds” amount decreases; or
  - (2) the total eligible project costs amount decreases.
- (c) For budget changes that are not identified in section 5.4(b), the Recipient shall follow the applicable procedures of the Administering Operating Administration and document the changes in writing.

- (d) If there are Project Cost Savings, then the Recipient may propose to the USDOT, in writing consistent with the Administering Operating Administration's requirements, to include in the Project specific additional activities that are within the scope of this award, as defined in section 1.1 and schedule B, and that the Recipient could complete with the Project Cost Savings.

In this agreement, "**Project Cost Savings**" means the difference between the actual eligible project costs and the total eligible project costs that are listed in section 3 of schedule D, but only if the actual eligible project costs are less than the total eligible project costs that are listed in section 3 of schedule D. There are no Project Cost Savings if the actual eligible project costs are equal to or greater than the total eligible project costs that are listed in section 3 of schedule D.

- (e) If there are Project Cost Savings and either the Recipient does not make a proposal under section 5.4(d) or the USDOT does not accept the Recipient's proposal under section 5.4(d), then:
- (1) in a request under section 5.4(b), the Recipient shall reduce the Federal Share by the Project Cost Savings; 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 total "RAISE Funds" and "Other Federal Funds" amounts that are listed in section 3 of schedule D.

- (f) The Recipient acknowledges that amounts that are required to be refunded under section 5.4(e)(2) constitute a debt to the Federal Government that the USDOT may collect under 2 CFR 200.346 and the Standards for Administrative Collection of Claims (31 CFR parts 901).

**5.5 USDOT Acceptance of Changes.** The USDOT may accept or reject modifications requested under this article 5, and in doing so may elect to consider only the interests of the RAISE Program and the USDOT. The Recipient acknowledges that requesting a modification under this article 5 does not amend, modify, or supplement this agreement unless the USDOT accepts that modification request and the parties modify this agreement under section 20.1.

## ARTICLE 6 GENERAL REPORTING TERMS

**6.1 Report Submission.** The Recipient shall send all reports required by this agreement to all USDOT contacts who are listed in section 5 of schedule A and all USDOT contacts who are listed in section 2.2.

- 6.2 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 Administering Operating Administration informs the Recipient of those processes in writing, the Recipient shall use the processes identified by the Administering Operating Administration.
- 6.3 Paperwork Reduction Act Information.** Under 5 CFR 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 7 PROGRESS AND FINANCIAL REPORTING

- 7.1 Quarterly Project Progress Reports and Recertifications.** On or before the 20th 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 in the format and with the content described in exhibit C. 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.
- 7.2 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 Project Progress Report and Recertification in the format and with the content described in exhibit C for each Quarterly Project Progress Report and Recertification, including a final Federal Financial Report (SF-425); and
  - (2) any other information required under the Administering Operating Administration’s award closeout procedures.

## ARTICLE 8 PERFORMANCE REPORTING

- 8.1 Baseline Performance Measurement.** If the Capital-Planning Designation in section 2 of schedule F is “Capital,” then:
- (1) the Recipient shall collect data for each performance measure that is identified in the Performance Measure Table in schedule G, accurate as of the Baseline Measurement Date that is identified in schedule G; and

- (2) on or before the Baseline Report Date that is stated in schedule G, the Recipient shall submit a Baseline Performance Measurement Report that contains the data collected under this section 8.1 and the information outlined in the *Baseline Report* section of the [RAISE Performance Measures Guidance- Updated 2023](#).

**8.2 Post-construction Performance Measurement.** If the Capital-Planning Designation in section 2 of schedule F is “Capital,” then:

- (1) for each performance measure identified in the Performance Measure Table in schedule G, the Recipient shall collect data for that performance measure as described in Table 1 of the [RAISE Performance Measures Guidance- Updated 2023](#); and
- (2) the Recipient shall submit to the USDOT an annual Post-construction Performance Measurement Report by January 31 to report project performance for the prior calendar year. Post-construction reporting will begin one quarter after project substantial completion and continue for three years (12 quarters). All performance measures will be reported annually. The Post-construction Performance Measurement Report shall contain the data collected under this section 8.2 and the information outlined in the *Annual Post-construction Performance Reports* section of the [RAISE Performance Measures Guidance- Updated 2023](#).

**8.3 Project Outcomes Narrative.** If the Capital-Planning Designation in section 2 of schedule F is “Capital,” then the final Post-construction Performance Measurement Report must also include a project outcomes narrative. The project outcomes narrative should include an overview of the project’s performance compared to the baseline and trend expectations. It should also include a discussion on the influence of external factors, if applicable.

**8.4 Performance Reporting Survival.** The data collection and reporting requirements in this article 8 survive the termination of this agreement.

**ARTICLE 9  
RESERVED**

**ARTICLE 10  
RESERVED**

**ARTICLE 11  
LABOR AND WORK**

**11.1 Labor and Work.** Schedule H documents the consideration of job quality and labor rights, standards, and protections related to the Project.

**ARTICLE 12  
CIVIL RIGHTS AND TITLE VI**

**12.1 Civil Rights and Title VI.**

- (a) Consistent with, ad DOT Order 1000.12C, including any amendments or updates thereto, “The U.S. Department of Transportation Title VI Program” (June 11, 2021), the purpose of sections 12.1(b)–12.1(c) is to ensure that the Recipient has a plan to comply with civil rights obligations and nondiscrimination laws, including Title VI and 49 CFR part 21, including any amendments thereto.
- (b) If the Recipient is an “Existing” Recipient then the Recipient shall submit to the USDOT either:
  - (1) not later than one month after the date of this agreement, documentation showing that the Recipient has complied with all reporting requirements under the Administering Operating Administration’s implementation of Title VI; or
  - (2) not later than six months after the date of this agreement, both a Title VI Plan and a Community Participation Plan, as those plans are described in chapter II, sections 3–4 of DOT Order 1000.12C, including any amendments or updates thereto.
- (c) If the Recipient is a “New” then the Administering Operating Administration completed a Title VI Assessment of the Recipient, as described in chapter II, section 2 of DOT Order 1000.12C, including any amendments or updates thereto, before entering this agreement, as documented in section 2 of schedule K.
- (d) In this section 12.1,
  - (1) “**Title VI**” means Title VI of the Civil Rights Act of 1964, Pub. L. No. 88-352 (codified at 42 U.S.C. 2000d to 2000d-4a).
  - (2) “**Existing**” means a prior recipient of DOT federal financial assistance since the publication of DOT Order 1000.12C on June 11, 2021.
  - (3) “**New**” means a recipient who has not received DOT federal financial assistance since the publication of DOT Order 1000.12C on June 11, 2021.

**12.2 Legacy Infrastructure and Facilities.** In furtherance of the Americans with Disabilities Act of 1990 (ADA), Pub. L. No. 101-336 (codified at 42 U.S.C. 12101–12213), and Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112 (codified at 29 U.S.C. 794), not later than one year after the date of this agreement, the Recipient shall develop a plan to address any legacy infrastructure or facilities that are not compliant with ADA standards and are involved in, or closely associated with, the Project.

**ARTICLE 13**  
**CRITICAL INFRASTRUCTURE SECURITY AND RESILIENCE**

**13.1 Critical Infrastructure Security and Resilience.**

- (a) Consistent with Presidential Policy Directive 21, “Critical Infrastructure Security and Resilience” (Feb. 12, 2013), and the National Security Presidential Memorandum on Improving Cybersecurity for Critical Infrastructure Control Systems (July 28, 2021), the Recipient shall consider physical and cyber security and resilience in planning, design, and oversight of the Project.
- (b) If the Security Risk Designation in section 5 of schedule F is “Elevated,” then, not later than two years after the date of this agreement, the Recipient shall submit to the USDOT a report that:
  - (1) identifies a cybersecurity Point of Contact for the transportation infrastructure being improved in the Project;
  - (2) summarizes or contains a cybersecurity incident reporting plan for the transportation infrastructure being improved in the Project;
  - (3) summarizes or contains a cybersecurity incident response plan for the transportation infrastructure being improved in the Project;
  - (4) documents the results of a self-assessment of the Recipient’s cybersecurity posture and capabilities; and
  - (5) describes any additional actions that the Recipient has taken to consider or address cybersecurity risk of the transportation infrastructure being improved in the Project.

**ARTICLE 14**  
**RAISE PROGRAM DESIGNATIONS**

- 14.1 Effect of Urban or Rural Designation.** Based on information that the Recipient provided to the USDOT, including the Technical Application, section 1 of schedule F 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.
- 14.2 Effect of Historically Disadvantaged Community or Area of Persistent Poverty Designation.** If section 3 of schedule F lists “Yes” for the “HDC or APP Designation,” then based on information that the Recipient provided to the USDOT, including the Technical Application, the USDOT determined that the Project will be carried out in a historically disadvantaged community or an area of persistent poverty, as defined in the

NOFO. The Recipient shall incur a majority of the costs under this award in historically disadvantaged communities or areas of persistent poverty.

## ARTICLE 15 CONTRACTING AND SUBAWARDS

**15.1 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.

**15.2 Buy America.**

(a) Steel, iron, and manufactured products used in the Project are subject to 23 U.S.C. 313, as implemented by the Federal Highway Administration. The Recipient acknowledges that this agreement is neither a waiver of 23 U.S.C. 313(a) nor a finding under 23 U.S.C. 313(b). The Recipient shall not use funds provided under this award for a project unless all iron and steel materials and all predominantly iron and steel products and components used in the project are produced in the United States – this means all manufacturing processes of the iron and steel materials and predominantly iron and steel products and components, including application of a coating, occurred in the United States. The requirements of this paragraph (a) apply to steel or iron materials and predominantly iron and steel products and components that are permanently incorporated into the project. The requirements of this paragraph also apply to iron and steel materials and predominantly iron and steel products and components procured under contracts eligible for assistance under Title 23, U.S.C., carried out within the scope of the applicable finding, determination, or decision under NEPA for this project, regardless of the funding source of such contracts. See 23 U.S.C. 313(h).

(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 FHWA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b). The Recipient shall not use funds under this award for an infrastructure project unless all construction materials are manufactured in the United States – this means that all manufacturing processes for the construction material occurred in the United States. See 2 CFR 184.6 for more information on the meaning of "all manufacturing processes" for specific construction materials. The requirements of this paragraph (b) only applies to articles, materials, and supplies that are consumed in, incorporated into, or apply to an infrastructure project.

For the purpose of this paragraph (b), “construction materials” means articles, materials, or supplies that consist of only one of the items listed in paragraph (1) of this definition, except as provided in paragraph (2) of this definition. To the extent one of the items listed

in paragraph (1) contains as inputs other items listed in paragraph (1), it is nonetheless a construction material.

(1) The listed items are:

- (i) Non-ferrous metals;
- (ii) Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- (iii) Glass (including optic glass);
- (iv) Fiber optic cable (including drop cable);
- (v) Optical fiber;
- (vi) Lumber;
- (vii) Engineered wood; and
- (viii) Drywall.

(2) Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material.

(c) Under 2 CFR 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 (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The Recipient shall include the requirements of 2 CFR 200.322 in all subawards including all contracts and purchase orders for work or products under this award.

### **15.3 Small and Disadvantaged Business Requirements.**

(a) If any funds under this award are administered by or through a State Department of Transportation, the Recipient shall expend those funds in compliance with the requirements at 49 CFR part 26, including any amendments thereto.

(b) If any funds under this award are not administered by or through a State Department of Transportation, the Recipient shall expend those funds in compliance with the requirements at 2 CFR 200.321, including any amendments thereto.

**15.4 Engineering and Design Services.** As applicable, the Recipient shall award each contract or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project in the same manner that a contract for architectural and engineering services is negotiated under the Brooks Act, 40 U.S.C. 1101–1104 as implemented in 23 U.S.C. 112(b)(2), or an equivalent qualifications-based requirement prescribed for or by the Recipient and approved in writing by the USDOT.

**15.5 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.** The Recipient acknowledges that Section 889 of Pub. L. No. 115-232 and 2

CFR 200.216 prohibit the Recipient and all subrecipients from procuring or obtaining certain telecommunications and video surveillance services or equipment under this award.

**15.6 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 CFR parts 200 and 1201, including 2 CFR 200.331–200.333.

**15.7 Subaward and Contract Authorization.**

- (a) If the USDOT Office for Subaward and Contract Authorization identified in section 7 of schedule A is “FHWA Division,” then the Recipient shall comply with subaward and contract authorization requirements under 23 CFR chapter I, subchapter G.
- (b) If the USDOT Office for Subaward and Contract Authorization identified in section 7 of schedule A is “FHWA Office of Acquisition and Grants Management,” then the Recipient shall obtain prior written approval from the USDOT agreement officer pursuant to 2 CFR 200.308, 2 CFR 200.333, and 23 CFR part 172, as applicable, for the subaward or contracting out of any work under this agreement. Approvals under 2 CFR 200.308 will be contingent upon a fair and reasonable price determination on the part of the Recipient and the agreement officer’s concurrence on that determination. Approvals under 2 CFR 200.30(f)(6) do not apply to the acquisition of supplies, materials, equipment, or general support services.

**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 that notice to be effective, 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 to the Recipient a notice 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 CFR 200.339–200.340, including withholding of payments; disallowance of previously reimbursed costs, requiring refunds from the Recipient to the USDOT; suspension or termination of the award; or suspension and disbarment under 2 CFR part 180; or
  - (3) any other remedy legally available.
- (b) To impose a remedy, the USDOT must provide to the Recipient a notice 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 CFR 200.346 and the Standards for Administrative Collection of Claims (31 CFR parts 901).

- 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 schedule D;
  - (2) a completion date for the Project or a component of the Project is listed in section 2 of schedule C and the Recipient fails to meet that milestone by six months after the date listed in section 2 of schedule C;
  - (3) the Recipient fails to meet a milestone listed in section 3 of schedule C by the deadline date listed in that section for that milestone;
  - (4) the Recipient fails to comply with the terms and conditions of this agreement, including a material failure to comply with the project schedule in schedule C even if it is beyond the reasonable control of the Recipient;
  - (5) circumstances cause changes to the Project that the USDOT determines are inconsistent with the USDOT's basis for selecting the Project to receive a RAISE Grant; 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 informs the Recipient that the award is closed out. Under 2 CFR 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 CFR 200.345–200.346, termination of the agreement does not extinguish the USDOT’s authority to disallow costs, including costs that the 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 28.4 does not terminate this agreement or the Recipient’s obligations under this agreement.
- (b) The end of the period of performance described under section 28.5 does not terminate this agreement or the Recipient’s obligations under this agreement.
- (c) The cancellation of funds under section 19.2 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 CFR part 200, including 2 CFR 200.339–200.340.

**ARTICLE 18  
COSTS, PAYMENTS, AND UNEXPENDED FUNDS**

**18.1 Limitation of Federal Award Amount.** Under this award, the USDOT shall not provide funding greater than the amount obligated under section 4.3. The Recipient acknowledges that the USDOT is not liable for payments exceeding that amount, and the Recipient shall not request reimbursement of costs exceeding that amount.

**18.2 Projects Costs.** This award is subject to the cost principles at 2 CFR 200 subpart E, including provisions on determining allocable costs and determining allowable costs.

**18.3 Timing of Project Costs.**

- (a) The Recipient shall not charge to this award costs that are incurred after final 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 section 5 of schedule D and would have been allowable if incurred during the budget period. This limitation applies to costs incurred under an advance construction authorization (23 U.S.C. 115), costs incurred prior to authorization (23 CFR 1.9(b)), and pre-award costs under 2 CFR 200.458. This agreement hereby terminates and supersedes any previous USDOT approval for the

Recipient to incur costs under this award for the Project. Section 5 of schedule D is the exclusive USDOT approval of costs incurred before the date of this agreement.

**18.4 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.

**18.5 Unexpended Federal Funds.** Any Federal funds that are awarded at section 4.1 but not expended on allocable, allowable costs remain the property of the United States.

**18.6 Timing of Payments to the Recipient.**

- (a) Reimbursement is the payment method for the RAISE Program, unless otherwise agreed upon by USDOT and the Recipient
- (b) The Recipient shall not request reimbursement of a cost before the Recipient has entered into an obligation for that cost.

**18.7 Payment Method.**

- (a) If the USDOT Payment System identified in section 6 of schedule A is “FMIS,” then the Recipient shall follow FMIS procedures to request and receive reimbursement payments under this award.
- (b) If the USDOT Payment System identified in section 6 of schedule A is “DELPHI eInvoicing,” then the Recipient shall use the DELPHI eInvoicing System to request reimbursement under this award unless the USDOT agreement officer provides written approval for the Recipient to use a different request and payment method.
- (c) The USDOT may deny a payment request that is not submitted using the method identified in this section 18.7.

**18.8 Information Supporting Expenditures.**

- (a) If the USDOT Payment System identified in section 6 of schedule A is “DELPHI eInvoicing,” then when requesting reimbursement of costs incurred or credit for cost share incurred, the Recipient shall electronically submit the SF 271 (Outlay Report and Request for Reimbursement for Construction Programs), shall identify the Federal share and the Recipient’s share of costs, and shall submit supporting cost detail to clearly document all costs incurred. As supporting cost detail, the Recipient shall include a detailed breakout of all costs incurred, including direct labor, indirect costs, other direct costs, and travel.

- (b) If the Recipient submits a request for reimbursement that the USDOT determines does not include or is not supported by sufficient detail, the USDOT may deny the request or withhold processing the request until the Recipient provides sufficient detail.

**18.9 Reimbursement Frequency.** If the USDOT Payment System identified in section 6 of schedule A is “DELPHI eInvoicing,” then the Recipient shall not request reimbursement more frequently than monthly.

## **ARTICLE 19 LIQUIDATION, ADJUSTMENTS, AND FUNDS AVAILABILITY**

### **19.1 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 19.2.
- (b) Liquidation of obligations and adjustment of costs under this agreement follow the requirements of 2 CFR 200.344–200.346.

### **19.2 Funds Cancellation.**

- (a) RAISE Program funding that was appropriated in division J of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021), is canceled by statute after September 30, 2033, and then unavailable for any purpose, including adjustments.
- (b) RAISE Program funding that was appropriated in the Consolidated Appropriations Act, 2024, Pub. L. No. 118-42 (March 8, 2024) remains available until expended.
- (c) Section 4.2 identifies the specific source or sources of funding for this award.

## **ARTICLE 20 AGREEMENT MODIFICATIONS**

**20.1 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 notice to the other party.

### **20.2 Unilateral Contact Modifications.**

- (a) The Recipient may update the contacts who are listed in section 3 of schedule A by notice to USDOT.
- (b) The USDOT may update the contacts who are listed in section 5 of schedule A and section 2.2 by notice to the Recipient.

**20.3 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 20.3, the USDOT must provide to the Recipient a notice that includes a description of the modification and state the date that the modification is effective.

**20.4 Other Modifications.** The parties shall not amend, modify, or supplement this agreement except as permitted under sections 20.1, 20.2, or 20.3. If an amendment, modification, or supplement is not permitted under section 20.1, not permitted under section 20.2, and not permitted under section 20.3, it is void.

**ARTICLE 21  
FEDERAL FINANCIAL ASSISTANCE, ADMINISTRATIVE, AND NATIONAL  
POLICY REQUIREMENTS**

**21.1 Uniform Administrative Requirements for Federal Awards.** The Recipient shall comply with the obligations on non-Federal entities under 2 CFR parts 200 and 1201.

**21.2 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) Pursuant to Executive Order 14173, Ending Illegal Discrimination And Restoring Merit-Based Opportunity, the Recipient agrees that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the government's payment decisions for purposes of section 3729(b)(4) of title 31, United States Code.
- (c) Pursuant to Executive Order 14173, Ending Illegal Discrimination And Restoring Merit-Based Opportunity, by entering into this agreement, the Recipient certifies that it does not operate any programs promoting diversity, equity, and inclusion (DEI) initiatives that violate any applicable Federal anti-discrimination laws.
- (d) 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.

**21.3 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.

**21.4 History of Performance.** Under 2 CFR 200.206, any Federal 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.

**21.5 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.

**21.6 External Award Terms and Obligations.**

- (a) In addition to this document and the contents described in article 29, this agreement includes the following additional terms as integral parts:
  - (1) Appendix A to 2 CFR part 25: System for Award Management and Universal Identifier Requirements;
  - (2) Appendix A to 2 CFR part 170: Reporting Subawards and Executive Compensation;
  - (3) 2 CFR part 175: Award Term for Trafficking in Persons; and
  - (4) Appendix XII to 2 CFR part 200: Award Term and Condition for Recipient Integrity and Performance Matters.
- (b) The Recipient shall comply with:
  - (1) 49 CFR part 20: New Restrictions on Lobbying;
  - (2) 49 CFR part 21: Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964, including any amendments thereto;
  - (3) 49 CFR part 27: Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance; and
  - (4) Subpart B of 49 CFR part 32: Governmentwide Requirements for Drug-free Workplace (Financial Assistance).

**21.7 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 22 MONITORING, FINANCIAL MANAGEMENT, CONTROLS, AND RECORDS**

### **22.1 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 CFR 200.332(e).
- (c) The Recipient shall retain records relevant to the award as required under 2 CFR 200.334.

### **22.2 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 22.2(a) in accordance with a financial management system that meets the requirements of 2 CFR 200.302–200.307, 2 CFR 200 subpart F, and title 23, United States Code, and will facilitate an effective audit in accordance with 31 U.S.C. 7501–7506.
- (c) The Recipient shall separately identify expenditures under the fiscal year 2024 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 CFR 200 subpart F, including “FY 2024” 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 2024” in column c (“Additional Award Identification”).

**22.3 Internal Controls.** The Recipient shall establish and maintain internal controls as required under 2 CFR 200.303.

**22.4 USDOT Record Access.** The USDOT may access Recipient records related to this award under 2 CFR 200.337.

## **ARTICLE 23 NOTICES**

### **23.1 Form of Notice.**

- (a) For a notice under this agreement to be valid, it must be in writing.
- (b) For a notice to USDOT under this agreement to be valid, it must be signed and dated by an individual with authority to act on behalf of the Recipient.

### **23.2 Method of Notice to USDOT.**

- (a) For a notice to USDOT under this agreement to be valid, it must be sent by one or more of the following: (1) email; (2) a national transportation company with all fees prepaid and receipt of delivery; or (3) by registered or certified mail with return receipt requested and postage prepaid.
- (b) For a notice to USDOT under this agreement to be valid, it must be addressed to all of the USDOT contacts who are listed in section 5 of schedule A and section 2.2.
- (c) Except as specified in section 23.2(d), a valid notice to USDOT under this agreement will be deemed to have been received on the earliest of (1) when the email is received by USDOT, as recorded by USDOT's email systems, and (2) when indicated on the receipt of delivery by national transportation company or mail.
- (d) If a valid notice or other communication to USDOT under this agreement is received after 5:00 p.m. on a business day, or on a day that is not a business day, then the notice will be deemed received at 9:00 a.m. on the next business day.

### **23.3 Method of Notice to Recipient.**

- (a) Except as specified in section 23.3(d), for a notice to the Recipient under this agreement to be valid, it must be sent by one or more of the following: (1) email; (2) a national transportation company with all fees prepaid and receipt of delivery; or (3) registered or certified mail with return receipt requested and postage prepaid.
- (b) For a notice to the Recipient under this agreement to be valid, it must be addressed to all of the Recipient contacts who are listed in section 3 of schedule A.
- (c) A valid notice to the Recipient under this agreement is effective when received by the Recipient. It will be deemed to have been received:

- (1) for email, on receipt; and, for other delivery, when indicated on the receipt of delivery by national transportation company or mail; or
  - (2) if the Recipient rejects or otherwise refuses to accept it, or if it cannot be delivered because of a change in address or representatives for which no notice was given, then on that rejection, refusal, or inability to deliver.
- (d) For a notice to the Recipient under article 16 to be valid, it must be sent by one or more of the following: (1) a national transportation company with all fees prepaid and receipt of delivery or (2) registered or certified mail with return receipt requested and postage prepaid.

**23.4 Recipient Contacts for Notice.** If a Recipient contact who is listed in section 3 of schedule A is unable to receive notices under this agreement on behalf of the Recipient, then the Recipient shall promptly identify one or more replacement contacts under section 20.2(a).

**23.5 Additional Mandatory Notices to USDOT.** The Recipient shall notify the USDOT if any one of the following conditions is satisfied, not later than 5 business days after that condition is satisfied:

- (1) the Recipient receives a communication related to this award or this agreement from the United States Comptroller General, a Federal Inspector General, or any other oversight entity; or
- (2) the Recipient becomes aware of waste, fraud, abuse, or potentially criminal activity related to this agreement.

**23.6 Scope of Notice Requirements.** The form and method requirements of this article 23, including sections 23.1, 23.2, and 23.3, apply only to communications for which this agreement expressly uses one or more of the following words: “notice”; “notification”; “notify”; or “notifying.” This article 23 does not control or limit other communication between the parties about the Project or this agreement.

## **ARTICLE 24 INFORMATION REQUESTS**

**24.1 USDOT Information Requests.**

- (a) By notice, the USDOT may request from the Recipient any information that the USDOT determines is necessary to fulfill its oversight responsibilities under the Program Statute or other Federal law.
- (b) If the USDOT requests information from the Recipient under section 24.1(a), the Recipient shall respond in the form and at the time detailed in the notice requesting information.

- (c) This section 24.1 does not limit the Recipient's obligations under section 22.4 or 2 CFR 200.337 to provide access to Recipient records.

## **ARTICLE 25 ASSIGNMENT**

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

## **ARTICLE 26 WAIVER**

**26.1 Waivers.**

- (a) A waiver of a term of this agreement granted by the USDOT will not be effective unless it is in writing and signed by an authorized representative of the USDOT.
- (b) A waiver of a term of this agreement granted by the USDOT on one occasion will not operate as a waiver on other occasions.
- (c) If the USDOT fails to require strict performance of a term 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 term or breach.

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

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

**27.2 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 CFR 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 CFR 24 subpart C and shall provide reasonable relocation payments and assistance to displaced persons as required in 49 CFR 24 subparts D–E.

- (c) The Recipient shall make available to displaced persons comparable replacement dwellings in accordance with 49 CFR 24.

**27.3 Equipment Disposition.**

- (a) In accordance with 2 CFR 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, the State shall dispose of that equipment in accordance with State laws and procedures;
  - (2) if the entity that acquired the equipment is an Indian Tribe, the Indian Tribe shall dispose of that equipment in accordance with tribal laws and procedures. If such laws and procedures do not exist, Indian Tribes must follow the guidance in 2 CFR 200.313; and
  - (3) if the entity that acquired the equipment is neither a State nor an Indian Tribe, that entity shall request disposition instructions from the Administering Operating Administration.
- (b) In accordance with 2 CFR 200.443(d), the distribution of the proceeds from the disposition of equipment must be made in accordance with 2 CFR 200.310–200.316 and 2 CFR 1201.313.
- (c) The Recipient shall ensure compliance with this section 27.3 for all tiers of subawards under this award.

**27.4 Environmental Review.**

- (a) In this section, “**Environmental Review Entity**” means:
  - (1) if the Project is located in a State that has assumed responsibilities for environmental review activities under 23 U.S.C. 326 or 23 U.S.C. 327 and the Project is within the scope of the assumed responsibilities, the State; and
  - (2) for all other cases, the FHWA.
- (b) Except as authorized under section 27.4(c), the Recipient shall not begin final design; acquire real property, construction materials, or equipment; begin construction; or take other actions that represent an irretrievable commitment of resources for the Project unless and until:
  - (1) the Environmental Review Entity complies with the National Environmental Policy Act, 42 U.S.C. 4321 to 4370m-12, and any other applicable environmental laws and regulations; and

- (2) if the Environmental Review Entity is not the Recipient, the Environmental Review Entity provides the Recipient with written communication stating that the environmental review process is complete.
- (c) If the Recipient is using procedures for early acquisition of real property under 23 CFR 710.501 or hardship and protective acquisitions of real property 23 CFR 710.503, the Recipient shall comply with 23 CFR 771.113(d)(1).
- (d) The Recipient acknowledges that:
  - (1) the Environmental Review Entity's actions under section 27.4(a) depend on the Recipient conducting necessary environmental analyses and submitting necessary documents to the Environmental Review Entity; and
  - (2) applicable environmental statutes and regulation may require the Recipient to prepare and submit documents to other Federal, State, and local agencies.
- (e) Consistent with 23 CFR 771.105(a), to the extent practicable and consistent with Federal law, the Recipient shall coordinate all environmental investigations, reviews, and consultations as a single process.
- (f) The activities described in schedule B and other information described in this agreement may inform environmental decision-making processes, but the parties do not intend this agreement to document the alternatives under consideration under those processes. If a build alternative is selected that does not align with schedule B or other information in this agreement, then:
  - (1) the parties may amend this agreement under section 20.1 for consistency with the selected build alternative; or
  - (2) if the USDOT determines that the condition at section 17.1(a)(5) is satisfied, the USDOT may terminate this agreement under section 17.1(a)(5).
- (g) The Recipient shall complete any mitigation activities described in the environmental document or documents for the Project, including the terms and conditions contained in the required permits and authorizations for the Project.

**27.5 Railroad Coordination.** If section 3 of schedule C includes one or more milestones identified as a "Railroad Coordination Agreement," then for each of those milestones, the Recipient shall enter a standard written railroad coordination agreement, consistent with

23 CFR 646.216(d), no later than the deadline date identified for that milestone, with the identified railroad for work and operation within that railroad's right-of-way.

## **ARTICLE 28 MANDATORY AWARD INFORMATION**

### **28.1 Information Contained in a Federal Award.** For 2 CFR 200.211:

- (1) the "Federal Award Date" is the date of this agreement, as defined under section 30.2;
- (2) the "Assistance Listings Number" is 20.933 and the "Assistance Listings Title" is "National Infrastructure Investments"; and
- (3) this award is not for research and development.

### **28.2 Federal Award Identification Number.**

- (a) If the USDOT Payment System identified in section 6 of schedule A is "FMIS," then the Federal Award Identification Number will be generated when the FHWA Division authorizes the project in FMIS. The Recipient acknowledges that it has access to FMIS and can retrieve the FAIN from FMIS.
- (b) If the USDOT Payment System identified in section 6 of schedule A is "DELPHI eInvoicing," then the Federal Award Identification Number is listed on page 1, line 1 of the project-specific agreement.

### **28.3 Recipient's Unique Entity Identifier.**

- (a) If the USDOT Payment System identified in section 6 of schedule A is "FMIS," then the Recipient's Unique Entity Identifier, as defined at 2 CFR 25.400, is available in FMIS. The Recipient acknowledges that it has access to FMIS and can retrieve the unique entity identifier from FMIS.
- (b) If the USDOT Payment System identified in section 6 of schedule A is "DELPHI eInvoicing," then the Recipient's Unique Entity Identifier, as defined at 2 CFR 25.400, is listed on page 1, line 4 of the project-specific agreement.

**28.4 Budget Period.** The budget period for this award begins on the date of this agreement and ends on the budget period end date that is listed in section 1 of schedule C. In this agreement, "budget period" is used as defined at 2 CFR 200.1.

### **28.5 Period of Performance.**

- (a) If the USDOT Payment System identified in section 6 of schedule A is "FMIS," then the period of performance for this award begins on the date of this agreement and ends on project end date in FMIS.

- (b) If the USDOT Payment System identified in section 6 of schedule A is “DELPHI eInvoicing,” then the period of performance for this award is listed on page 1, line 6 of the project-specific agreement.
- (c) In this agreement, “period of performance” is used as defined at 2 CFR 200.1.

## ARTICLE 29 CONSTRUCTION AND DEFINITIONS

**29.1 Schedules.** This agreement includes the following schedules as integral parts:

Schedule A	Administrative Information
Schedule B	Project Activities
Schedule C	Award Dates and Project Schedule
Schedule D	Award and Project Financial Information
Schedule E	Changes from Application
Schedule F	RAISE Program Designations
Schedule G	RAISE Performance Measurement Information
Schedule H	Labor and Work

**29.2 Exhibits.** The following exhibits, which are located in the document titled “Exhibits to FHWA Grant Agreements Under the Fiscal Year 2024 RAISE Program,” dated November 4, 2025, and available at <https://www.transportation.gov/BUILDgrants/grant-agreements>, are part of this agreement.

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

**29.3 Construction.**

- (a) In these General Terms and Conditions:
  - (1) unless expressly specified, a reference to a section or article refers to that section or article in these General Terms and Conditions;
  - (2) a reference to a section or other subdivision of a schedule listed in section 29.1 will expressly identify the relevant schedule; and
  - (3) there are no references to articles or sections in project-specific portions of the agreement that are not contained in schedules listed in section 29.1.

(b) If a provision in these General Terms and Conditions or the exhibits conflicts with a provision in the project-specific portion of the agreement, then the project-specific portion of the agreement prevails. If a provision in the exhibits conflicts with a provision in these General Terms and Conditions, then the provision in these General Terms and Conditions prevails.

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

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

“**General Terms and Conditions**” means this document, including articles 1–30.

“**Program Statute**” means the collective statutory text:

- (1) at 49 U.S.C. 6702;
- (2) under the heading “Department of Transportation—Office of the Secretary—National Infrastructure Investments” in title VIII of division J of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021), and all other provisions of that act that apply to amounts appropriated under that heading; and
- (3) under the heading “Department of Transportation—Office of the Secretary—National Infrastructure Investments” in title I of division L of the Consolidated Appropriations Act, 2024 Pub. L. No. 118-42 (March 8, 2024), 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 schedules A–H.

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

“**Technical Application**” means the application identified in section 1 of schedule A, including Standard Form 424 and all information and attachments submitted with that form through Grants.gov.

**29.6 References to Times of Day.** All references to times of day in this agreement are deemed references to that time at the prevailing local time in Washington, DC.

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

**30.1 Counterparts.** This agreement may be executed in counterparts, which constitute one document. The parties intend each countersigned original to have identical legal effect.

**30.2 Effective Date.** The agreement will become effective when all parties have signed it. The date of this agreement will be the date this agreement is signed by the last party to sign it. This instrument constitutes a RAISE Grant when the USDOT's authorized representative signs it.

**U.S. DEPARTMENT OF TRANSPORTATION**  
**EXHIBITS TO FHWA GRANT AGREEMENTS UNDER THE**  
**FISCAL YEAR 2024 RAISE PROGRAM**

**November 4, 2025**

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

By entering into this agreement for a FY 2024 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., as applicable under 23 U.S.C. 113
- 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. Section 106 of the National Historic Preservation Act of 1966 – 54 U.S.C. 306108
- f. Archeological and Historic Preservation Act of 1974 – 54 U.S.C. 312501, et seq.
- g. Native American Graves Protection and Repatriation Act – 25 U.S.C. 3001, et seq.
- h. Clean Air Act, Pub. L. No. 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, Pub. L. No. 93-205, as amended – 16 U.S.C. 1536
- k. Coastal Zone Management Act, Pub. L. No. 92-583, as amended – 16 U.S.C. 1451, et seq.
- l. Section 102 of the Flood Disaster Protection Act of 1973 – 42 U.S.C. 4012a
- m. Age Discrimination Act of 1975 – 42 U.S.C. 6101, et seq.
- n. American Indian Religious Freedom Act, Pub. L. No. 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, Pub. L. No. 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. Contract Work Hours and Safety Standards Act – 40 U.S.C. 3701, et seq.
- t. Copeland Anti-kickback Act, as amended – 18 U.S.C. 874 and 40 U.S.C. 3145
- u. National Environmental Policy Act of 1969 – 42 U.S.C. 4321, et seq.
- v. Wild and Scenic Rivers Act, Pub. L. No. 90-542, as amended – 16 U.S.C. 1271, et seq.
- w. Single Audit Act of 1984 – 31 U.S.C. 7501, et seq.
- x. Americans with Disabilities Act of 1990 – 42 U.S.C. 12101, et seq.
- y. Title IX of the Education Amendments of 1972, as amended – 20 U.S.C. 1681 through 1683 and 1685 through 1687
- z. Section 504 of the Rehabilitation Act of 1973, as amended – 29 U.S.C. 794
- aa. Title VI of the Civil Rights Act of 1964 – 42 U.S.C. 2000d, et seq.
- bb. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and

- Financial Transactions – 31 U.S.C. 1352
- cc. Freedom of Information Act – 5 U.S.C. 552, as amended
- dd. Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. 1855
- ee. Farmland Protection Policy Act of 1981 – 7 U.S.C. 4201, et seq.
- ff. Fish and Wildlife Coordination Act of 1956 – 16 U.S.C. 661, et seq.
- gg. Section 9 of the Rivers and Harbors Act and the General Bridge Act of 1946 – 33 U.S.C. 401 and 525
- hh. Section 4(f) of the Department of Transportation Act of 1966 – 49 U.S.C. 303 and 23 U.S.C. 138
- ii. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended – 42 U.S.C. 9601, et seq.
- jj. Safe Drinking Water Act – 42 U.S.C. 300f to 300j-26
- kk. Wilderness Act – 16 U.S.C. 1131-1136
- ll. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 – 42 U.S.C. 6901, et seq.
- mm. Migratory Bird Treaty Act – 16 U.S.C. 703, et seq.
- nn. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. No. 109–282, as amended by section 6202 of Pub. L. No. 110–252)
- oo. Cargo Preference Act of 1954 – 46 U.S.C. 55305
- pp. Section 889 of the John D. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232
- qq. Build America, Buy America Act, Pub. L. No. 117-58, div. G §§ 70901–70927

### **Executive Orders**

- a. Executive Order 11990 – Protection of Wetlands
- b. Executive Order 12372 – Intergovernmental Review of Federal Programs
- c. Executive Order 12549 – Debarment and Suspension
- d. Executive Order 14005 – Ensuring the Future is Made in All of America by All of America’s Workers
- e. Executive Order 14025 – Worker Organizing and Empowerment
- f. Executive Order 14149, Restoring Freedom of Speech and Ending Federal Censorship
- g. Executive Order 14154, Unleashing American Energy
- h. Executive Order 14151, Ending Radical and Wasteful Government DEI Programs and Preferencing
- i. Executive Order 14168 Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government
- j. Executive Order 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity

### **General Federal Regulations**

- a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – 2 CFR Parts 200, 1201
- b. Non-procurement Suspension and Debarment – 2 CFR Parts 180, 1200
- c. Procedures for predetermination of wage rates – 29 CFR Part 1
- d. Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States – 29 CFR Part 3

- e. 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 CFR Part 5
- f. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements) – 41 CFR Parts 60, et seq.
- g. New Restrictions on Lobbying – 49 CFR Part 20
- h. Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 – 49 CFR Part 21, including any amendments thereto
- i. Uniform relocation assistance and real property acquisition for Federal and Federally assisted programs – 49 CFR Part 24
- j. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance – 49 CFR Part 25
- k. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance – 49 CFR Part 27
- l. DOT's implementation of DOJ's ADA Title II regulations compliance procedures for all programs, services, and regulatory activities relating to transportation under 28 CFR Part 35
- m. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 CFR Part 28
- n. Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors – 49 CFR Part 30
- o. Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) – 49 CFR Part 32
- p. 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 CFR Parts 37 and 38
- q. Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs – 49 CFR Part 26 (as applicable under section 15.3 of this agreement), including any amendments thereto

### **Highway Federal Legislation**

- a. Highways – Title 23, U.S.C.
- b. Brooks Act (for FHWA projects, this incorporates Title IX of the Federal Property and Administrative Services Act of 1949 – 40 U.S.C. 1101-1104; 23 U.S.C. 112(b)(2))
- c. Letting of Contracts, 23 U.S.C. 112
- d. Highway Design and Construction Standards, 23 U.S.C. 109
- e. Prevailing Rate of Wage, 23 U.S.C. 113
- f. Planning, 23 U.S.C. 134 and 135 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)
- g. Tolls, 23 U.S.C. 301 (to the extent the recipient wishes to toll an existing free facility that has received Title 23 funds in the past); except as authorized by 23 U.S.C. 129 and 166.
- h. Size, Weight, and Length Limitations – 23 U.S.C. 127, 49 U.S.C. 31101 et seq.
- i. Buy America – 23 U.S.C. 313  
(see [http://www.fhwa.dot.gov/construction/contracts/buyam\\_qa.cfm](http://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm))

- j. Nondiscrimination – 23 U.S.C. 140
- k. Efficient Environmental Reviews - 23 U.S.C. 139

**Federal Highway Regulations**

- a. Highways – Title 23, CFR
- b. Planning – 23 CFR Part 450 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)
- c. National Highway System Design Standards – 23 CFR Part 625
- d. Preconstruction Procedures – 23 CFR Part 630 Subparts A and B
- e. Construction and Maintenance – 23 CFR Part 635
- f. Manual on Uniform Traffic Control Devices – 23 CFR Part 655
- g. Environmental Impact and Related Procedures – 23 CFR Part 771
- h. Procedures for Abatement of Highway Traffic and Construction Noise – 23 CFR Part 772
- i. Procedures Implementing Section 4(f) of the Department of Transportation Act – 23 CFR Part 774
- j. Permitting Requirements under the National Pollutant Discharge Elimination System – 40 CFR Part 122
- k. Required Contract Provisions – 23 CFR Part 633 (Form 1273)
- l. External Programs – 23 CFR Part 230

Specific assurances required to be included in the FY 2024 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 CFR 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 2024 RAISE Program, the Recipient **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Highway Administration (FHWA), it is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

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

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

**General Assurances**

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

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

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

### **Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FY 2024 RAISE Program:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR Part 21, including any amendments thereto, 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 2024 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 the FHWA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA. You must keep records, reports, and submit the material for review upon request to FHWA, or its designee in a timely,

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

The Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FY 2024 RAISE 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 2024 RAISE Program.

## APPENDIX A

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

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

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

## APPENDIX B

### CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

**NOW, THEREFORE**, the U.S. Department of Transportation as authorized by law and upon the condition that the Recipient will accept title to the lands and maintain the project constructed thereon in accordance with the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021), the Consolidated Appropriations Act, 2024, Pub. L. No. 118-42 (March 8, 2024), 49 U.S.C. § 6702, the Regulations for the Administration of the FY 2024 RAISE Program, and the policies and procedures prescribed by the Federal Highway Administration (FHWA) of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, including any amendments thereto, 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, including any amendments thereto, 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 CFR Part 21, including any amendments thereto;
- 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 CFR 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 CFR 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);
- 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 CFR Parts 180 and 1200**

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

By signing and submitting the Technical Application and by entering into this agreement under the FY 2024 RAISE Program, the Recipient is providing the assurances and certifications for First Tier Participants and Lower Tier Participants in the FY 2024 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 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a Recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR 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 CFR 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 B of the Consolidated Appropriations Act, 2024, Pub. L. No. 118-42 (March 8, 2024), and implemented through USDOT Order 4200.6, the funds provided under this award shall not be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that:

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

The Recipient therefore agrees:

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

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

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

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

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

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

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

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

4. **Prohibition.** If

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
- (ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

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

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

- 1. Purpose.** The purpose of the Quarterly Project Progress Reports and Recertifications under this agreement for the FY 2024 RAISE Program are to ensure that the project scope, schedule, and budget will be maintained to the maximum extent possible.
- 2. Format and Content.** The Recipient shall produce a quarterly cost, schedule, and status report that contains the sections enumerated in the following list. At the discretion of the USDOT, modifications or additions can be made to produce a quarterly reporting format that will most effectively serve both the Recipient and the USDOT. Some projects will have a more extensive quarterly status than others. For smaller projects, the USDOT may determine that the content of the quarterly reports will be streamlined and project status meetings will be held on a less-frequent basis. The first quarterly progress report should include a detailed description and, where appropriate, drawings of the items funded.

  - (a) Project Overall Status.** This section provides an overall status of the project’s scope, schedule and budget. The Recipient shall note and explain any deviations from the scope of work, the schedule, or the budget that are described in this agreement.
  - (b) Project Significant Activities and Issues.** This section provides highlights of key activities, accomplishments, and issues occurring on the project during the previous quarter. Activities and deliverables to be reported on should include meetings, audits and other reviews, design packages submitted, advertisements, awards, construction submittals, construction completion milestones, submittals related to any applicable Recovery Act requirements, media or Congressional inquiries, value engineering/constructability reviews, and other items of significance.
  - (c) Action Items/Outstanding Issues.** This section should draw attention to, and track the progress of, highly significant or sensitive issues requiring action and direction in order to resolve. The Recipient should include administrative items and outstanding issues that could have a significant or adverse effect on the project’s scope, schedule, or budget. Status, responsible person(s), and due dates should be included for each action item/outstanding issue. Action items requiring action or direction should be included in the quarterly status meeting agenda. The action items/outstanding issues may be dropped from this section upon full implementation of the remedial action, and upon no further monitoring anticipated.
  - (d) Project Scope Overview.** The purpose of this section is to provide a further update regarding the project scope. If the original scope contained in the grant agreement is still accurate, this section can simply state that the scope is unchanged.
  - (e) Project Schedule.** An updated master program schedule reflecting the current status of the program activities should be included in this section. A Gantt (bar) type chart is probably the most appropriate for quarterly reporting purposes, with the ultimate

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

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

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

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

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

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

**(h) Certifications.**

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

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

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

As described in section 4.3(f) of the General Terms and Conditions, this instrument obligates [\$\$\$] for [insert portion of project listed in the Obligation Condition Table in section 2 of schedule D] in accordance with the applicable Project-Specific Agreement amendment procedures.

[Recipient name] states that:

- (1) schedule B of the Agreement accurately describe the Project’s activities;
- (2) for each completion date listed in section 2 of schedule C of the Agreement, the Recipient’s estimate for that milestone is not more than six months after the date listed in section 2 of schedule C of the Agreement;
- (3) comparing the Project’s current budget with the amounts listed in section 3 of schedule D of the Agreement, the “Non-Federal Funds” amount has not decreased and the total eligible project costs amount has not decreased; and
- (4) under the terms of article 5 of the General Terms and Conditions, the Recipient is not presently required to request a modification to the Agreement.

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

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

The USDOT has determined that:

- (1) all conditions described in the Obligation Condition Table in section 2 of schedule D for this portion of the Project are satisfied; and

(2) all applicable Federal requirements for obligating these funds are satisfied.

_____	By: _____
Date	Signature of USDOT's Authorized Representative
	<b>[insert name]</b>
	_____
	Name
	<b>[insert title]</b>
	_____
	Title

