

## SUBGRANT AGREEMENT

THIS AGREEMENT, entered into as of this \_\_\_\_\_ of \_\_\_\_\_, 2021, by and between Fulton County, a political subdivision of the State of Georgia (hereinafter referred to as the "Subgrantee") and the ATLANTA REGIONAL COMMISSION (hereinafter referred to as "ARC").

### WITNESSETH THAT:

WHEREAS, ARC desires to engage the Subgrantee to render certain services hereinafter described in connection with an undertaking or project (hereinafter referred to as the "Project") which is to be wholly or partially financed by a grant from the United States Department of Transportation, (hereinafter, along with the appropriate auditing agency of the entities making such grant, referred to as "the Concerned Funding Agencies");

WHEREAS, the Subgrantee desires to render such services in connection with the project;

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter contained, the parties hereto agree as follows:

1. Engagement of the Subgrantee. ARC hereby agrees to engage the Subgrantee and the Subgrantee hereby agrees to perform the services hereinafter set forth in accordance with the terms and conditions herein.
2. Scope of Services. The Subgrantee shall do, perform and carry out in a satisfactory and proper manner, as determined by ARC, the work and services described in Attachment "A" which is attached hereto and made a part hereof.
3. Time of Performance. The services of the Subgrantee are to commence immediately upon execution of this agreement. Work and services shall be undertaken and pursued in such sequence as to assure their expeditious completion and as may be required in Attachment "A." All work and services required hereunder shall be completed on or before December 31, 2022.
4. Compensation. The Subgrantee shall be compensated for the work and services to be performed under this agreement as set forth in Attachment "B" which is attached hereto and made part hereof. Compensation for work and services in the performance of this contract shall not exceed 243,778.
5. Approval of Subcontracts. None of the work or services to be performed under this agreement by the Subgrantee shall be subcontracted without the prior written approval of ARC's Executive Director or his authorized agent. If such approval is requested, all subcontract documents shall be submitted to ARC's Executive Director or his authorized agent, for his review and approval prior to the execution of such subcontract. Further, if requested by ARC's Executive Director or his authorized agent, the Subgrantee shall provide

ARC with such documentation as ARC's Executive Director shall require, regarding the method the Subgrantee used in selecting its subcontractor. The Subgrantee acknowledges that if work or services to be performed under this agreement is financed solely or partially with federal funds, the selection of subcontractors is governed by regulations requiring competition between potential subcontractors or adequate justification for sole source selection. The Subgrantee agrees to abide by such regulations in its selection procedure.

6. Prompt Payment and Retainage. The prime subgrantee agrees to pay each subcontractor under this prime grant for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime subgrantee receives from ARC. The prime subgrantee agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of ARC. This clause applies to both DBE and non-DBE subcontracts.

Any subgrantee found not to be in compliance with this clause will be considered in breach of contract and any further payments will be withheld until corrective action is taken. If subgrantee does not take corrective action, subgrantee may be subject to contract termination.

7. Assignability. The Subgrantee shall not assign, sublet or transfer all or any portion of its interest in this agreement without the prior written approval of ARC.
8. Amendments. ARC may require changes in this agreement. Except for termination for cause or convenience, such changes, including any increase or decrease in the amount of the Subgrantee's compensation shall be incorporated in written amendments to this agreement. Amendments to this agreement may be executed on behalf of ARC only by ARC's Executive Director and Chairman.
9. Insurance. The Subgrantee will have and maintain insurance coverage that complies with the laws of the state of Georgia, as well as reasonable and prudent business practices. Such insurance shall at least include Worker's Compensation, Public Liability, Property Damage, and Valuable Papers coverage.
10. Indemnification. The Subgrantee shall hold harmless and indemnify ARC, its officers, directors, and employees from and against losses, reasonable attorney's fees and costs, that may be based on any injury to persons or property caused by the negligent performance of services under this agreement by the Subgrantee or any person employed by the Subgrantee.
11. Formal Communication. Formal communications regarding this agreement shall include, but not necessarily be limited to correspondence, progress reports and fiscal reports.

All formal communication regarding this agreement shall be in writing between the person executing this agreement on behalf of the Subgrantee (executor) and ARC's Executive Director. However, the Subgrantee executor and ARC's Executive Director shall each have the right to designate in writing to the other an agent to act in his or her behalf regarding this

agreement. Any restrictions to such designation must be clearly defined in the written designation.

In this regard, ARC's Executive Director hereby designates the Director of the Center for Livable Communities as his agent for purposes of this contract only, except for Amendments and Terminations.

12. Reports. The Subgrantee shall furnish ARC with narrative progress reports, in such form and frequency as may be specified by ARC's Executive Director or his authorized agent, outlining the work accomplished by the Subgrantee during the period, including the current status of the Project, and the percentage of work which has been completed.
13. Financial Reports. In addition to other records required by this contract, the Subgrantee agrees to provide to ARC such additional financial reports in such form and frequency as ARC may require in order to meet ARC's requirements for reporting to the Concerned Funding Agencies.
14. Program Fraud and False or Fraudulent Statements or Related Acts. The Subgrantee acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Subgrantee certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Subgrantee further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Subgrantee to the extent the Federal Government deems appropriate.

The Subgrantee also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Subgrantee, to the extent the Federal Government deems appropriate.

The Subgrantee agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

15. Review and Coordination. To ensure adequate assessment of the Subgrantee's project and proper coordination among interested parties, ARC shall be kept fully informed concerning the progress of the work and services to be performed hereunder. The Subgrantee may be required to meet with designated representatives of ARC and the Concerned Funding

Agencies from time to time to review the work and services performed. The Subgrantee shall be given reasonable written notice of such meetings.

16. Inspections. Authorized representatives of ARC and the Concerned Funding Agencies may at all reasonable times review and inspect the Project activities and data collected pursuant to this agreement. Except where specifically prohibited by law, all reports, studies, records, and computations prepared by or for the Subgrantee under this agreement shall be made available to authorized representatives of ARC and the Concerned Funding Agencies for inspection and review at all reasonable times in the Subgrantee's office where data is normally accumulated. Approval and acceptance of such material shall not relieve the Subgrantee of its professional obligation to correct, at its expense, any errors found in the work unless such errors can be shown to be caused by inaccurate or incomplete information provided by ARC.
17. Maintenance of Cost Records. The Subgrantee shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred on the Project and shall make such material available at all reasonable times during the period of the agreement, and for three years from the date of final payment under the agreement, for inspection by ARC, the Concerned Funding Agencies, and if the work and services to be performed under this agreement is wholly or partially funded with federal funds, the Comptroller General of the United States, or any of their duly authorized representatives. The Subgrantee shall include the provisions of this paragraph in any subcontract executed in connection with this Project.
18. No Obligation by the Federal Government. ARC and the Subgrantee acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to ARC, the Subgrantee, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.  
  
The Subgrantee agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.
19. Status as Independent Contractors. Nothing contained in this agreement shall be construed to constitute the Subgrantee or any of its employees, servants, agents or subcontractors as a partner, employee, servant, or agent of ARC, nor shall either party to this agreement have any authority to bind the other in any respect, it being intended that each shall remain an independent contractor.
20. Subgrantee's Personnel. The Subgrantee represents that it has, or will secure at its own expense, all personnel required to perform the services under this agreement. Such personnel shall not be employees of ARC, nor shall such personnel have been employees of ARC during any time within the twelve-month period immediately prior to the date of this agreement, except with the express prior written consent of ARC. Further, the Subgrantee

agrees that no such former ARC employees shall be involved in any way with the performance of this agreement, without the express prior written approval of ARC.

21. Employees' Rate of Compensation. The rate of compensation for work performed under this project by a staff member or employee of the Subgrantee shall not exceed the compensation of such person that is applicable to his or her other work activities for the Subgrantee. Charges for salaries and wages of individuals shall be supported by time and attendance and payroll distribution records.
22. Interest of Subgrantee. The Subgrantee covenants that neither the Subgrantee, nor anyone controlled by the Subgrantee, controlling the Subgrantee, or under common control with the Subgrantee, nor its agents, employees or Subgrantees, presently has an interest, nor shall acquire an interest, direct or indirect, which would conflict in any manner or degree with the performance of its service hereunder, or which would prevent, or tend to prevent, the satisfactory performance of the Subgrantee's service hereunder in an impartial and unbiased manner. The Subgrantee further covenants that in the performance of this agreement no person having any such interest shall be employed by the Subgrantee as an agent, Subgrantee or otherwise. If the Subgrantee contemplates taking some action which may constitute a violation of this paragraph, the Subgrantee shall request in writing the advice of ARC, and if ARC notifies the Subgrantee in writing that the Subgrantee's contemplated action will not constitute a violation hereof, then the Subgrantee shall be authorized to take such action without being in violation of this paragraph.
23. Interest of Members of ARC and Others. No officer, member or employee of ARC, and no public official of any local government which is affected in any way by the project, who exercises any function or responsibilities in the review or approval of the project or any component part thereof, shall participate in any decision relating to this agreement which affects his or her personal interests or the interest of any corporation, partnership or association in which he or she is directly, or indirectly, interested; nor shall any such officer, member or employee of ARC, or public official of any local government affected by the project, have an interest, direct or indirect, in this agreement or the proceeds arising therefrom.
24. Officials Not to Benefit. No member of or delegate to the Congress of the United States of America, resident commissioner or employee of the United States Government, shall be admitted to any share or part of this agreement or to any benefits to arise herefrom.
25. Compliance with Requirements of the Concerned Funding Agencies. The Subgrantee shall be bound by the applicable terms and conditions of the Grant Contract between ARC and the Concerned Funding Agencies which said Grant Contract is on file in the offices of ARC and is hereby made a part of this agreement as fully as if the same were attached hereto. ARC will notify the Subgrantee in writing of any applicable changes within a reasonable time after ARC has received appropriate notice of such changes from the Concerned Funding Agencies.

26. Incorporation of Federal Transit Administration (FTA) Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.
27. Disclosure of Legal Matters. Subgrantee shall provide notice if a current or prospective legal matter that may affect the Federal Government emerges.
28. Federal Changes. Subgrantee shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between ARC and FTA, as they may be amended or promulgated from time to time during the term of this contract. Subgrantee's failure to so comply shall constitute a material breach of this contract.
29. Rights in Documents, Materials and Data Produced. For purposes of this agreement, "data" includes, but is not limited to, writings, sound recordings, photographs, films, videotapes or other graphic representations and works of a similar nature. ARC and the Concerned Funding Agencies shall have the right to use same without restriction or limitation and without compensation to the Subgrantee other than as provided in this agreement. The Subgrantee acknowledges that matters regarding rights to inventions and materials generated by or arising out of this agreement may be subject to certain regulations issued by the Concerned Funding Agencies.
30. Data and Software Licensing. During performance of the work covered by this Agreement ARC may provide certain data or software products, such as aerial photography or commercially available planning data and software, to the Subgrantee that have been obtained from various sources under specific licensing agreements. The Subgrantee acknowledges that any data or software that ARC may provide hereunder is provided as a non-exclusive, non-transferable, limited license for the Subgrantee or its Sub-Subgrantees to use the data or software for the work covered by this Agreement only. The Subgrantee shall not redistribute, republish or otherwise make this data or software available to any party not covered by this Agreement. The Subgrantee or any Sub-Subgrantees shall not use this data or software for any work not covered by this Agreement. The Subgrantee further acknowledges that upon completion of the project covered by this Agreement all data and software provided by ARC will be returned to ARC and all copies of the data or software residing on the Subgrantee's or Sub-Subgrantee's computer systems will be removed.
31. Publicity. Articles, papers, bulletins, reports or other material reporting the plans, progress, analysis or results and findings of the work conducted under this agreement shall not be presented or published without first submitting the same to ARC for review and comment. No such presentation shall be made until comments have been received from ARC

regarding such review; provided, however, if such comments have not been received by the Subgrantee within thirty calendar days after such submission, it shall be presumed that ARC has no objection thereto. ARC's comments, objections, reservations or disagreements regarding such material shall be accommodated as ARC shall specify.

32. Assurances. The Subgrantee hereby assures and certifies that it will comply with the appropriate regulations, policies, guidelines and requirements (as applicable), including, but not limited to, 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 48 CFR 31, "Contract Cost Principles and Procedures," Executive Order 12372, "Intergovernmental review of Federal programs," U.S. Office of Management and Budget Circular Nos. A 21, "Cost Principles for Educational Institutions," and A 133, "Audits of States, Local Governments and Non-Profit Organizations," or other requirements imposed by ARC or the Concerned Funding Agencies concerning requirements of law or project matters as expressly made applicable by ARC herein, as they relate to the application, acceptance, use and audit of federal funds for this federally assisted project. For audits of fiscal years beginning on or after December 26, 2014, the provisions of 2 CFR 200.501 supersede OMB circular A133. A nonfederal entity that expends \$750,000 or more in federal awards during its fiscal year must have a single or program-specific audit conducted for that year. Also, the Subgrantee gives assurance and certifies with respect to this agreement that:

a. For all agreements:

- i. It possesses legal authority to apply for this agreement, and, if appropriate, to finance and construct any proposed facilities; and, any required resolution, motion or similar action has been duly adopted or passed as an official act of the Subgrantee's governing body; that proper authorization exists for the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the Subgrantee to act in connection with the application and to provide such additional information as may be required, and, upon ARC approval of its application, that the person identified as the official representative of the Subgrantee is authorized to execute an agreement incorporating the terms of its application.
- ii. It understands that the phrase "federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect federal assistance.
- iii. It will comply with Title VI of the Civil Right Act of 1964 (P.L. 88-352 and 42 USC 2000d) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of age, handicap, religion, creed or belief, political affiliation, sex, race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any project or activity for which the applicant receives federal financial assistance and will immediately take any measures necessary to effectuate this assurance. The Subgrantee shall take affirmative action to ensure that qualified applicants are employed and qualified

subcontractors are selected, and that qualified employees are treated during employment, without regard to their age, handicap, religion, creed or belief, political affiliation, race, color, sex or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; selection for training including apprenticeship, and participation in recreational and educational activities.

The Subgrantee shall in all solicitations or advertisements for subcontractors or employees placed by or on behalf of the Subgrantee, state that all qualified applicants will receive consideration for employment without regard to age, handicap, religion, creed or belief, political affiliation, race, color, sex or national origin. The Subgrantee shall not discriminate against any qualified client or recipient of services provided through this agreement on the basis of age, handicap, religion, creed or belief, political affiliation, race, color, sex or national origin. The Subgrantee shall cause foregoing provisions to be included in all subcontracts for any work covered by this agreement so that such provisions will be binding upon each subcontractor.

The Subgrantee shall keep such records and submit such reports concerning the racial and ethnic origin of applicants for employment and employees as ARC or the Concerned Funding Agencies may require.

The Subgrantee agrees to comply with such rules, regulations or guidelines as ARC or the Concerned Funding Agencies may issue to implement the requirements of this paragraph.

- iv. It will comply with applicable requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of federal and federally assisted projects.
- v. It will comply with the applicable provisions of the Hatch Act which limits the political activity of employees.
- vi. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- vii. It will cooperate with ARC in assisting the Concerned Funding Agencies in this compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting, through ARC, with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36

CFR Part 800.8) by the activity, and notifying, through ARC, the Concerned Funding Agencies of the existence of any such properties, and by (b) complying with all requirements established by ARC or the Concerned Funding Agencies to avoid or mitigate adverse effects upon such properties.

- viii. For agreements not involving federal financial assistance for construction, it will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the Project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Concerned Funding Agencies, through ARC, of the receipt of any communication from the Director of the EPA Office of Federal Activities indicting that a facility to be used in the project is under consideration for listing by EPA.
- ix. It will comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in U.S. Department of Labor regulations (41 CFR Part 60).
- x. The Subgrantee agrees that throughout the performance of this contract it will remain in full compliance with all federal and state immigration laws, including but not limited to provisions 8 USC 1324a and O.C.G.A. § 13-10-91 regarding the unlawful employment of unauthorized aliens and verification of lawful presence in the United States. Thereunder, Subgrantee will ensure that only persons who are citizens or nationals of the United States or non-citizens authorized under federal immigration laws are employed to perform services under this contract or any subcontract hereunder.
- xi. The Subgrantee agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

The Subgrantee further agrees to include the provisions contained in the forgoing paragraph in each subcontract for services hereunder.

The Subgrantee shall not retaliate or take any adverse action against any employee or any subcontractor for reporting, or attempting to report a violation(s) regarding applicable immigration laws.

- b. For agreements involving either full or partial federal financial assistance for construction projects(s):
  - i. It will comply with the provisions of Executive Order 11296, relating to evaluation of flood hazards, and Executive Order 11288, relating to the prevention, control, and abatement of water pollution.
  - ii. It will require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by, the

Physically Handicapped," Number A117 1-1961, as modified (41 CFR 101 - 17.703). The Subgrantee will be responsible for conducting inspections to ensure compliance by the Subgrantee with these specifications.

- c. For agreements exceeding \$ 100,000.00 in federal financial assistance:
  - i. It will comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- d. For subgrants providing transit operations:
  - i. General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Subgrantee agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Subgrantee agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.
  - ii. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Subgrantee agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Subgrantee agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

- iii. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Subgrantee agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

The Subgrantee also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

- iv. Drug and Alcohol Testing. The subgrantee agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of (name of State), or the (insert name of grantee), to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654 before (insert date) and to submit the Management Information System (MIS) reports before (insert date before March 15) to (insert title and address of person responsible for receiving information). To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

### 33. Certifications.

- a. Prohibition Against Use of Funds to Influence Legislation (Lobbying). No part of any funds under this agreement shall be used to pay the salary or expenses of any Subgrantee, or agent acting for the Subgrantee, to engage in any activity designed to influence legislation or appropriations pending before the Congress as stated in 49 CFR 20.
- b. Debarment and Suspension. The Subgrantee agrees to comply with the nonprocurement debarment and suspension rules in 49 CFR 29.
- c. Drug-Free Workplace. The Subgrantee agrees and certifies that it will comply with the requirements for a Drug-Free Workplace, as described in Section 50-24-3 of the Official Code of Georgia, including passing through this requirement to lower tier Subgrantees.
- d. The Subgrantee agrees and hereby certifies that it will comply with the Georgia Security and Immigration Compliance requirements of O.C.G.A. § 13-10-91.

- e. Subgrantee certifies that Subgrantee is not currently engaged in, and agrees for the duration of this Contract not to engage in, a boycott of Israel, as defined in O.C.G.A. 50-5-85.
34. Subgrantee Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights: (a) This Contract and employees working on this Contract will be subject to the whistleblower rights and remedies in the pilot program on Subgrantee employee whistleblower protections established at 41 U.S.C. 4712 by § 828 of the National Defense Authorization Act for Fiscal Year 2013 Pub. L. 112-239 and FAR 3.908 (b) The Subgrantee shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in § 3.908 of the Federal Acquisition Regulation. (c) The Subgrantee shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.
35. Other Requirements. In addition to other requirements of this agreement, the Subgrantee agrees to comply with, and shall be bound by, the applicable terms and conditions of all state and federal laws or regulations governing and defining resources, project administration, allowable costs and associated procurement standards, and the ARC Disadvantaged Business Enterprise Plan (in compliance with 49 CFR Part 26), as appropriate. In addition, the Subgrantee further agrees to comply with the DBE Utilization Plan submitted to ARC as part of its proposal. All such documents are hereby made part of this agreement fully as if the same were attached hereto.
- The Subgrantee shall not discriminate on the basis of race, color, national origin, or sex in the performance of this agreement. The Subgrantee shall carry out applicable requirements of 49 CFR 26 in the award and administration of DOT assisted agreements. Failure by the Subgrantee to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.
- The Subgrantee agrees to pay each subcontractor under this prime agreement for satisfactory performance of its agreement no later than ten business days from the receipt of each payment that said prime Subgrantee receives from ARC. The prime Subgrantee agrees further to return retainage payments to each subcontractor within ten business days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of ARC. This clause applies to both Disadvantaged Business Enterprises and non-Disadvantaged Business Enterprises.
36. Termination for Mutual Convenience. ARC or the Subgrantee may terminate this agreement in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall, through formal written amendment, agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The Subgrantee shall not incur new obligations for the terminated portion

after the effective date, and shall cancel as many outstanding obligations as possible. ARC shall evaluate each noncancelable obligation to determine its eligibility for inclusion in project costs. Settlement will be made in accordance with the terms and conditions of this agreement. ARC shall allow full credit to the Subgrantee for the ARC share of the non-cancelable obligations, properly incurred by the Subgrantee prior to termination.

37. Termination for Convenience. ARC may terminate this agreement, in whole or in part, at any time by giving written notice to the Subgrantee of such termination and specifying the effective date thereof, at least fifteen days before the effective date of such termination. In that event, all information and material produced or collected under this agreement and/or used in the performance of the scope of services shall, at the option of ARC, become its property. If this agreement is terminated by ARC as provided in this paragraph, the Subgrantee will be reimbursed for the otherwise allowable actual expenses incurred by the Subgrantee up to and including the effective date of such termination, as authorized in Attachment "B." The Subgrantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. ARC shall evaluate each noncancelable obligation to determine its eligibility for inclusion in project costs.
38. Termination of the Agreement for Cause. If the Subgrantee, due to its action or failure to act, shall fail to fulfill in a timely and proper manner its obligations under this agreement, or if the Subgrantee has or shall violate any of the covenants, agreements, representations or stipulations of this agreement, ARC shall thereupon have the right to terminate this agreement by giving written notice to the Subgrantee of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all information and materials collected or produced under this agreement and/or used in the performance of the scope of services shall, at the option of ARC, become its property. The Subgrantee shall be entitled to receive just and equitable compensation for any satisfactory work completed under the Scope of Service up to and including the effective date of termination as authorized in Attachment "B." Notwithstanding the foregoing to the extent provided by law, the Subgrantee shall not be relieved of liability to ARC for damages sustained by ARC by virtue of any breach of this agreement by the Subgrantee and ARC may withhold any payments to the Subgrantee for the purpose of set-off for damages caused by the Subgrantee's breach, until such time as the exact amount of damages to ARC from the Subgrantee is determined.
39. Termination Due to Non-Availability of Funds. Notwithstanding any other provision of this agreement, in the event that any of the funds for carrying out the functions to which this agreement relates do not become available, then, upon written notice to the Subgrantee, this agreement may be immediately terminated without further obligation of ARC.
40. Suspension Due to Non-Availability of Funds. The Concerned Funding Agencies have the right to suspend financial assistance for this project. Consequently, ARC reserves the same right regarding this agreement. Such suspension would cause the withholding of further payments and/or prohibiting the Subgrantee from incurring additional obligations during the suspension period. However, unless notified in writing to the contrary, such suspension

would not invalidate obligations otherwise properly incurred by the Subgrantee prior to the date of suspension to the extent that they are noncancelable.

41. Disputes and Appeals Any dispute concerning a question of fact arising either from a Subgrantee or subgrant selection decision, or under a Subgrantee or subgrant contract, once executed, shall be decided by the cognizant Center Director who, after advisory consultation with all appropriate ARC officials (e.g., Director of Business Services, General Counsel, etc.), shall promptly reduce such decision concerning the question of fact to writing and mail, or otherwise furnish a copy thereof, to the disputing party (i.e., as appropriate, either: the unsuccessful proposer; or the Subgrantee or subgrantee). The Center Director shall concurrently fully advise the disputing party, in writing, of the provisions outlined herein below concerning the disputing party's right to appeal the decision to the ARC Executive Director. A copy of all such documents shall also be furnished to the Director of Business Services.

The decision of the Center Director shall be final and conclusive unless, within ten (10) calendar days of receipt of such written decision, the disputing party mails or otherwise furnishes a written appeal concerning the question of fact to the ARC Executive Director, who shall arrange a formal hearing within twenty (20) calendar days after receipt of such appeal. Both the appealing party and the cognizant Center Director shall be notified no less than five (5) calendar days in advance of the hearing and shall have the right to present witnesses and give evidence concerning the question of fact at such time. Within twenty (20) calendar days after the hearing, the Executive Director shall make a decision concerning the question of fact in writing to the appealing party and to the cognizant Center Director. A copy of the decision shall also be furnished to the Director of Business Services.

The decision of the Executive Director concerning the question of fact shall be final and conclusive unless determined by the cognizant grantor agency or agencies, or the Comptroller General of the United States, or a court of competent jurisdiction to have been arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law.

Pending final decision of an appeal to the Executive Director under a Subgrantee or subgrant contract already executed, the Subgrantee or subgrantee shall proceed diligently with the performance of the contract and in accordance with the cognizant Center Director's decision.

Nothing in the foregoing shall be construed as making final the decisions of the cognizant Center Director or the Executive Director as such decision relate to question of law.

42. Force Majeure. In no event shall either Party be responsible or liable for any failure or delay in the performance of its obligations hereunder upon the occurrence of any circumstance beyond the control of either party, such as acts of God, war, acts of terrorism, government regulations, disaster, strikes, work stoppages, accidents, mandatory quarantines, pandemics, curfews, or other restrictions of movements, or civil disorder, to the extent that such circumstances make it illegal or impossible for either Party to fulfill the terms of this

Agreement. Any termination or delay in the performance of this Agreement without liability is conditioned upon delivery of written notice to the other party setting forth the basis for such termination as soon as reasonably practical, but in no event longer than ten (10) days, after learning of such basis. It is understood that both Parties shall use reasonable efforts which are consistent with industry standard to fulfill the performance of this agreement to the extent feasible

43. Applicable Law. This agreement shall be deemed to have been executed and performed in the State of Georgia. All questions of interpretation and construction shall be construed by the laws of Georgia.

IN WITNESS WHEREOF, the Subgrantee and ARC have executed this agreement as of the day first above written.

ATTEST:

FULTON COUNTY

\_\_\_\_\_

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

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

ATTEST:

ATLANTA REGIONAL COMMISSION

\_\_\_\_\_

ARC Assistant Secretary

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

Executive Director

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

Chair

## ATTACHMENT A

### Scope of Work

**I. General:** The work to be accomplished is in support of the following Atlanta Regional Commission (ARC) sub-element:

006ESS- Fulton County HSCR Mobility Grant

**II. Area covered:** The area of funding for the program is limited to Fulton County including the municipalities.

**III. Goal:** Expand and improve public transportation services for seniors in need of more responsive, less cumbersome mobility options by utilizing transportation network companies like Uber and Lyft. Ridership will be increased, accessibility for individuals with disabilities will be increased, and research will be conducted on the program's effectiveness and cost efficiency.

**IV. Background:** In 2018 Fulton County Department of Senior Services established Alternative Senior Transportation Services (ASTS), formerly Mobility Options for Senior Transport (MOST) pilot program, to expand and improve public transportation services for seniors in need of more responsive, less cumbersome mobility options by utilizing transportation network companies (TNCs) like Uber and Lyft. Fulton County aims to increase ridership, improve accessibility for individuals with disabilities, & conduct research on the program model's effectiveness & cost-efficiency. ASTS allows aging residents to feel more empowered, independent, & mobile within their communities.

In 2019 FCDSS was awarded \$243,778 from the Federal Transit Administration - Human Services Coordination Research Program to supplement ASTS program operating expenses. Fulton County Department of Senior Services would like to partner with ARC to use Fulton County Department of Senior Services available Human Service Coordination Research (HSCR) grant to supplement the ASTA program. The available funds include a \$121,922 local match for a total amount of \$365,700. The local match of \$122,922 will be through in-kind donation of staff time that is paid for by the County.

### **V. Subgrantee Responsibilities:**

The Subgrantee shall do, perform, and carry out, in a satisfactory and proper manner, as determined by ARC, the following work and services:

- Hire Transportation Research Coordinator
- Implement new/revised procedures for ASTS program services
- Ensure all appropriate community outreach presentations include information about ASTS
- Integrate training program for TNC drivers to assist senior rides with disabilities
- Develop policies and procedures to assist seniors with seeing eye dogs utilize ASTS program services

- Contractor meeting to implement new process to deliver services to seniors and go over expectations
- Offer first training to seniors on how to access TNC services through ASTS programs
- Offer trainings to TNC drivers in how to assist customers with limited physical abilities
- Incorporate transportation program into the staff community outreach presentations
- Analyze performance measure data on ASTS program and present finding to key stakeholders
- Offer second training to seniors on how to access TNC services through the ASTS program
- Coordinate with transportation partners to expand their programs to include TNC services
- Offer third training to seniors on how to access TNC services through the ASTS program
- Provide consultation/technical assistance to other states/municipalities on program implementation
- Analyze performance measure data on ASTS program and present findings to key stakeholders

## **ATTACHMENT B**

### **Compensation and Method of Payment**

I. Compensation: The total compensation to be paid by ARC to the Subgrantee for the Project as described in “Attachment A” is \$243,778.00. A breakdown of this compensation is shown in “Exhibit B-1 Contract Budget”, which is attached and made part of this contract for financial reporting monitoring and audit purposes.

A breakdown of this compensation is shown in Exhibit B-1, “Budget Estimate”, which is attached to and made part of this contract for financial reporting, monitoring and audit purposes.

II. Method of Payment: The following method of payment replaces that specified in the main body of the contract.

A. Progress Payments: The Subgrantee shall be entitled to receive progress payments on the following basis. As of the last day of each month during the existence of this contract, the Subgrantee shall prepare an invoice for payment documenting detailed activities completed for each task and costs incurred during the invoice period. This invoice shall be submitted to ARC along with the monthly report by the 10<sup>th</sup> of the following month. Any work for which reimbursement is requested may be disallowed at ARC’s discretion if not properly documented, as determined by ARC, in the required monthly narrative progress report.

Upon the basis of its audit and review of such invoice and its review and approval of the monthly reports called for in the paragraph concerning “Reports” in the main body of the contract, ARC will, at the request of the Subgrantee, make payments to the Subgrantee as the work progresses but not more often than once a month. Invoices shall reflect 100% of the allowable actual costs incurred, be numbered consecutively and submitted each month until the project is completed. Reimbursement payments from ARC shall be at 80% of the approved invoiced costs.

Subgrantee’s monthly invoices and monthly narrative progress reports are to be submitted to the ARC Director or his authorized agent and must be received by him not later than the 10th day of the following month. ARC may, at its discretion, disallow payment of all or part of an invoice received after this deadline.

B. Final Payment: Final payment shall only be made upon determination by ARC that all requirements hereunder have been completed. Upon such determination and upon submittal of a final invoice, ARC shall pay all compensation due to the Subgrantee, less the total of all previous progress payments made.

Subgrantee’s final invoice and documents as described in “Attachment A, Task 7 – Draft and Final Master Plan” must be received by ARC no later than one month after the project completion date specified in Paragraph 3 of the contract. ARC may, at its discretion, disallow payment of all or part of a final invoice received after this deadline.

III. Completion of Project: It is agreed that in no event will the maximum compensation and reimbursement, if any, to be paid to the Subgrantee under this contract exceed \$243,778 and that the Subgrantee expressly agrees that they shall do, perform and carry out in a satisfactory and proper manner, as determined by ARC, all of the work and services described in Attachment A.

IV. Access to Records: The Subgrantee agrees that ARC, the Concerned Funding Agency or Agencies and, if appropriate, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Subgrantee which are directly pertinent to the project for the purpose of making audit, examination, excerpts and transcriptions.

The Subgrantee agrees that failure to carry out the requirements set forth above shall constitute a breach of contract and may result in termination of this agreement by ARC or such remedy as ARC deems appropriate.

V. ARC's Designated Agent. In accordance with Paragraph 5 of the main body of this contract, ARC's Director hereby designates ARC's Director of Center for Livable Communities, as his agent ("Cognizant Center Director") for purposes of this contract only, except for executing amendments hereto.

**EXHIBIT B-1****Budget Estimate**

<b>Personnel</b>	<b>Federal</b>	<b>Local</b>	<b>Total</b>
Program Coordinator	\$0	\$53,221	\$ 53,221
Administrative Coordinator	\$0	\$38,935	\$ 38,935
Transportation Research Coordinator	\$79,494	\$0	\$ 79,494
<b>Fringe Benefits</b>			
Fulton County Fringe Benefit Rate @ 32.3% of salaries	\$25,677	\$29,766	\$ 55,443
<b>Travel</b>			
TRC Travel Reimbursement to local meeting and training events	\$1,472	\$0	\$ 1,472
<b>Supplies</b>			
Laptop for TRC (quantity-1)	\$1,000	\$0	\$ 1,000
Office Supplies (\$115/month x 18 months)	\$2,070	\$0	\$ 2,070
Cell Phone for TRC (1@ \$60/month x 18 months)	\$1,080	\$0	\$ 1,080
Business Cards for TRC (1 pack)	\$500	\$0	\$ 500
Outreach Training Supplies (\$186/month x 18 months)	\$2,970	\$0	\$ 2,970
<b>Other</b>			
Access & Mobility Ride Reimbursement (9,900 rides \$9.65/ride, 550 rides/month x 18 months)	\$95,535	\$0	\$ 95,535
Registration Fees (\$15/registration x 26 registrations/month x 18 months)	\$7,020	\$0	\$ 7,020
Monthly Maintenance Fee for Drivers (\$300/month x 18 months)	\$5,400	\$0	\$ 5,400
<b>Indirect Cost</b>			
Fulton County Indirect Cost Rate @ 20.5002% of salaries and fringe benefits	\$21,560	\$0	\$ 21,560
<b>Total Project Cost</b>	<b>\$243,778</b>	<b>\$121,922</b>	<b>\$ 365,700</b>

\* Note: The estimates listed above are preliminary and actual costs by task may vary so long as the total contract value does not increase. Any change to the budget estimates shown above must be requested by email or in writing and approved by ARC's Cognizant Center Director.