Joint Information Meeting

TOWN COUNCIL & COUNTY COMMISSIONER MEETING

August 1, 2022
1:30 PM
County Commission Chambers
Chair: Natalia Macker

NOTICE: THE VIDEO AND AUDIO FOR THIS MEETING ARE STREAMED TO THE PUBLIC VIA THE INTERNET AND MOBILE DEVICES WITH VIEWS THAT ENCOMPASS ALL AREAS, PARTICIPANTS AND AUDIENCE MEMBERS. PLEASE SILENCE ALL ELECTRONIC DEVICES DURING THE MEETING

I. ZOOM LINK FOR PUBLIC PARTICIPATION

To join, click the link or copy to your browser: https://us02web.zoom.us/j/82951775316
If the link does not work, join at zoom.com with Webinar ID **829 5177 5316**
or join by phone **+1 669 900 6833** with Webinar ID **829 5177 5316**

II. CALL TO ORDER, ROLL CALL, AND ANNOUNCEMENTS

III. PUBLIC COMMENT

This section is reserved for comments on items that are not otherwise included in this agenda. Public comment is limited to 3 minutes. As a general practice, the Electeds will not hold discussion or debate these comments. Nor will they make any decisions presented during this time, but rather refer to staff for follow-up. If you would like to communicate with the Electeds during the meeting, please address them during this open public comment, when public comment is called for on a specific agenda item or send an email to council@jacksonwy.gov and commisioners@tetoncountywy.gov.

IV. HUMAN SERVICE UPDATES 1:30-3:00 P.M.

Community Entry Services
JH Community Counseling Center
Senior Center of Jackson Hole
Voices JH
Teton Literacy Center
One 22 Resource Center
Teton Youth and Family Services
Community Safety Network
Hole Food Rescue
Learning Center
Cultivate Ability
Climb Wyoming

V. CONSENT CALENDAR

A. Meeting Minutes
   1. July 5, 2022 Minutes
   2. July 6, 2022 Minutes
   3. July 18, 2022 Minutes

VI. DISCUSSION/ACTION ITEMS

Please note that at any point during the meeting, the Chairman or Mayor may change the order of items listed on this agenda. In order to ensure that you are present at the time your item of interest is discussed, please join the meeting at the beginning to hear any changes to the schedule or agenda.

A. BUILD Grant Acceptance Consideration (60 mins)

VII. MATTERS FROM COUNCIL, COMMISSIONERS AND STAFF

VIII. ADJOURN

Please note that at any point during the meeting, the Chairman or Mayor may change the order of items listed on this agenda. In order to ensure that you are present at the time your item of interest is discussed, please join the meeting at the beginning to hear any changes to the schedule or agenda.

JOINT INFORMATION PROCEEDINGS
TOWN COUNCIL AND BOARD OF COUNTY COMMISSIONERS MEETING

JULY 5, 2022 **JACKSON, WYOMING**

The Jackson Town Council met in conjunction with the Teton County Commission in a joint information meeting (JIM) located in the County Commissioner's Chambers located at 200 S. Willow St. at 3:04 P.M.

I. ROLL CALL. Upon roll call the following were present:

COUNTY COMMISSIONERS: Chairwoman Natalia Macker, Vice-Chairman Luther Propst, Mark Barron, Mark Newcomb, and Greg Epstein.

TOWN COUNCIL: Mayor Hailey Morton Levinson, Vice-Mayor Arne Jorgensen, Jim Rooks, and Jonathan Schechter. Jessica Sell Chambers.

II. PUBLIC COMMENT. None.

III. EXECUTIVE SESSION

On behalf of the County, a motion was made by Commissioner Epstein and seconded by Commissioner Barron to enter executive session pursuant to WY Statute §16-4-405(a)(ii) to consider appointments to a volunteer board, specifically the appointment of a board member as a public officer. Chairwoman Macker called for the vote. The vote showed all in favor and the motion carried for the County.

On behalf of the Town, a motion was made by Councilmember Schechter and seconded by Councilmember Rooks to enter executive session pursuant to WY Statute §16-4-405(a)(ii) to consider appointments to a volunteer board, specifically the appointment of a board member as a public officer. Mayor Morton Levinson called for the vote. The vote showed all in favor and the motion carried for the Town.

The meeting entered executive session at 3:05 P.M.

Commissioners Present: Natalia Macker, Luther Propst, Greg Epstein, Mark Barron, and Mark Newcomb.

Town Council Present: Hailey Morton Levinson, Arne Jorgensen, Jonathan Schechter, and Jim Rooks.

Others: Maureen Murphy, Clerk, and Chalice Weichman, Deputy County Clerk were present. Town Attorney Lea Colasuonno was present for the beginning of the executive session.

On behalf of the County, a motion was made by Commissioner Barron and seconded by Commissioner Epstein to exit executive session. Chairwoman Macker called for the vote. The vote showed all in favor and the motion carried for the County.

The Town exited executive session, and the meeting exited executive session at 3:19 P.M.

IV. APPOINTMENTS

On behalf of the County, a motion was made by Commissioner Propst and seconded by Commissioner Barron to appoint to the Jackson Hole Travel and Tourism Board Julie Calder and Mike Geraci to serve full terms. Chairwoman Macker called for the vote. The vote showed all in favor and the motion carried for the County.

On behalf of the Town, a motion was made by Councilmember Schechter and seconded by Councilmember Jorgensen to appoint to the Jackson Hole Travel and Tourism Board Julie Calder and Mike Geraci to serve full terms. Mayor Morton Levinson called for the vote. The vote showed all in favor and the motion carried for the Town.

V. ADJOURN

On behalf of the County, a motion was made by Commissioner Barron and seconded by Commissioner Epstein to adjourn. Chairwoman Macker called for a vote. The vote showed all in favor and the motion carried for the County.

On behalf of the Town, a motion was made by Councilmember Schechter and seconded by Councilmember Rooks to adjourn. Mayor Morton Levinson called for a vote. The vote showed all in favor and the motion carried for the Town.

The meeting adjourned at 3:21 P.M.

TETON COUNTY BOARD OF COUNTY COMMISSIONERS

_____
Natalia D. Macker, Chairwoman

ATTEST:

_____
Maureen E. Murphy, County Clerk

TOWN OF JACKSON

_____
Hailey Morton Levinson, Mayor

ATTEST:

_____
Town Clerk

JOINT INFORMATION PROCEEDINGS
TOWN COUNCIL AND BOARD OF COUNTY COMMISSIONERS MEETING

JULY 6, 2022 **JACKSON, WYOMING**

The Jackson Town Council met in conjunction with the Teton County Commission in a joint information meeting (JIM) located in the County Commissioner's Chambers located at 200 S. Willow St. at 1:32 P.M.

I. ROLL CALL. Upon roll call the following were present:

COUNTY COMMISSIONERS: Chairwoman Natalia Macker, Vice-Chairman Luther Propst, Mark Barron, Mark Newcomb, and Greg Epstein.

TOWN COUNCIL: Mayor Hailey Morton Levinson, Vice-Mayor Arne Jorgensen, and Jonathan Schechter. Jim Rooks joined the meeting at 1:42 P.M. and Jessica Sell Chambers was absent.

STAFF: Tyler Sinclair, Maureen Murphy, Roxanne Robinson, Lea Colasuonno, Stacy Stoker, Larry Pardee, Brady Hansen, Chris Neubecker, Amy Ramage, Matt Carr, Abigail Moore, and Chalice Weichman.

II. PUBLIC COMMENT. None.

III. CONSENT CALENDAR.

A. Meeting Minutes. To approve the meeting minutes for the June 6, 2022, June 13, 2022, June 27, 2022, and June 28, 2022 meetings as presented.

On behalf of the County, a motion was made by Commissioner Newcomb and seconded by Commissioner Propst to approve the consent calendar for today's joint information meeting that includes the minutes for the June 6, 2022, June 13, 2022, June 27, 2022, and June 28, 2022 meetings, as presented. Chairwoman Macker called for a vote. The vote showed all in favor and the motion carried for the County.

On behalf of the Town, a motion was made by Councilmember Jorgensen and seconded by Councilmember Schechter to approve the consent calendar for today's joint information meeting that includes the minutes for the June 6, 2022, June 13, 2022, June 27, 2022, and June 28, 2022 meetings, as presented. Mayor Morton Levinson called for a vote. The vote showed three in favor and the motion carried 3-0 for the Town.

IV. MATTERS FOR DISCUSSION

CONSENT ITEM B: Housing Nexus Study and Needs Assessment Contract Amendment (pulled from consent).

Chris Neubecker, Director of Planning and Building, presented to the Town and County for consideration of approval an amendment the scope of work with WSW Consulting ("WSW") concerning the timeline, budget, and deliverables for the housing mitigation policy discussion. Staff proposes that WSW provide a final report from the recently completed Regional Housing Needs Assessment work with staff on suggested next steps, including linkage policy development and drafting Land Development Regulations ("LDRs") based on policy direction, and provide facilitation assistance through the policy adoption. The revised scope of work proposes that Economic and Planning Systems, as well as Logan Simpson, be included as subconsultants. As proposed, some funds previously approved would be reallocated to the Mitigation Policy Discussion & Facilitation and to Housing Linkage LDR Updates. With this revision, WSW will not be involved going forward in the Community Housing Plan phase.

There was no public comment.

On behalf of the County, a motion was made by Commissioner Epstein and seconded by Commissioner Propst to approve the revised Scope of Work for Linkage Policy Development with WSW Consulting dated May 26, 2022, to complete the Regional Housing Needs Assessment, develop a Residential Linkage Policy, and draft Land Development Regulations for a not to exceed amount of $115,000. Chairwoman Macker called for a vote. The vote showed four in favor and the motion carried 4-1 for the County with Commissioner Barron opposed.

On behalf of the Town, a motion was made by Councilmember Jorgensen and seconded by Councilmember Schechter to approve the revised Scope of Work for Linkage Policy Development with WSW Consulting dated May 26, 2022, to complete the Regional Housing Needs Assessment, develop a Residential Linkage Policy, and draft Land Development Regulations for a not to exceed amount of $115,000, with the Town reimbursing the County for 50% of the total amount. Mayor Morton Levinson called for a vote. The vote showed three in favor and the motion carried 3-0 for the Town.

Councilmember Rooks joined the meeting at 1:45 p.m.

A. Housing Rules & Regulations - Continued June 13, 2022

Stacy Stoker, Housing Manager, presented to the Town and County For consideration of approval 10 policy topics in the Jackson/Teton County Housing Department Rules and Regulations and provide direction to staff. These topics include seventeen policy questions.

In June of 2018, the Jackson Town Council and Teton County Board of County Commissioners adopted the Jackson/Teton County Housing Department Rules and Regulations. On February 28, 2022, the Town Council and Board of County Commissioners identified a list of topics that they requested to be discussed at the annual Rules and Regulations Update. The attached list encompasses the entire list of identified topics with the exception of one, which was a request to add the topic of requiring energy efficient appliances in the Livability Standards for restricted units. Energy Star appliances is already a requirement in the Livability Standards so this topic was removed. The complete list of topics and policy questions along with staff analysis is attached in the staff report.

There was no public comment.

On behalf of the Town, a motion was made by Councilmember Jorgensen and seconded by Councilmember Schechter to direct staff to make the changes to the Housing Rules and Regulations, as proposed today, and bring the proposed redlined Title 16 of the Town of Jackson Ordinances back to the August 1 JIM for approval and to begin the 3 readings of the ordinance changes prior to adoption. Mayor Morton Levinson called for the vote. The vote showed four in favor and the motion carried 4-0 for the Town.

On behalf of the County, a motion was made by Commissioner Newcomb and seconded by Commissioner Propst to direct staff to make the changes to the Housing Rules and Regulations, as proposed today, and bring the proposed redlined Housing Rules and Regulations document back to the August 1 JIM for approval and release for the 45-day public comment period. Chairwoman Macker called for the vote. The vote showed four in favor and the motion carried 4-1 for the County with Commissioner Barron opposed.

The meeting recessed at 3:03 P.M. and reconvened at 3:13 P.M.

B. SPET BALLOT RESOLUTION – Continued from June 27, 2022

The purpose of this SPET (Special Purpose Excise Tax) discussion is for the Town Council and County Commission to take public comment, complete their dialogue regarding the SPET items, decide on the requirement for affidavits and/or MOUs, and make final edits to the ballot resolution language and amounts.

Public comment was given in-person by Bill Voge, Janine Bay Teske, and Sandra Murphy. Public comment was given via Zoom, by Jack Kirill and Meghan Quinn.

Commissioner Barron left the meeting at 3:23 P.M.

Roxanne Robinson, Assistant Town Manager, provided a slideshow with draft SPET expenditures for consideration.

Brady Hansen, Fire Chief, and Gillian Chapman, Teton County School District #1 Superintendent, commented on project applications.

Commissioner Barron rejoined the meeting at 4:23 P.M.

On behalf of the Town, a motion was made by Councilmember Rooks and seconded by Mayor Morton Levinson to direct the Town Attorney and County Attorney's Office to draft a Memorandum of Understanding with St. John's, CWC, and TCSD #1 requiring that:

a) They comply with the Town or County's Land Development Regulations and Building Codes, and participate in the public process required by the Town or County; and
b) Present executed versions of said agreements at the meeting to be held July 18 at 10:00 a.m. before adoption of the final SPET ballot resolution.

Mayor Morton Levinson called for the vote. The vote showed three in favor and the motion carried 3-1 for the Town with Councilmember Schechter opposed.

On behalf of the County, a motion was made by Commissioner Epstein and seconded by Commissioner Barron to direct the Town Attorney and County Attorney's Office to draft a Memorandum of Understanding with St. John's, CWC, and TCSD #1 requiring that:

a) They comply with the Town or County's Land Development Regulations and Building Codes, and participate in the public process required by the Town or County; and
b) Present executed versions of said agreements at the meeting to be held July 18 at 10:00 a.m. before adoption of the final SPET ballot resolution.

Chairwoman Macker called for the vote. The vote showed three in favor and the motion carried 3-2 for the County with Commissioners Propst and Barron opposed.

V. MATTERS FROM COMMISSION AND COUNCIL. None.

VI. ADJOURN. On behalf of the County, a motion was made by Commissioner Barron and seconded by Commissioner Epstein to adjourn. Chairwoman Macker called for a vote. The vote showed all in favor and the motion carried for the County.

On behalf of the Town, a motion was made by Councilmember Schechter and seconded by Councilmember Jorgensen to adjourn. Mayor Morton Levinson called for a vote. The vote showed all in favor and the motion carried for the Town.

The meeting adjourned at 5:27 P.M.

TETON COUNTY BOARD OF COUNTY COMMISSIONERS

_____
Natalia D. Macker, Chairwoman

ATTEST:

_____
Maureen E. Murphy, County Clerk

TOWN OF JACKSON

_____
Hailey Morton Levinson, Mayor

ATTEST:

_____
Town Clerk

JOINT INFORMATION PROCEEDINGS
TOWN COUNCIL AND BOARD OF COUNTY COMMISSIONERS MEETING

JULY 18, 2022 **JACKSON, WYOMING**

The Jackson Town Council met in conjunction with the Teton County Commission in a joint information meeting (JIM) located in the County Commissioner's Chambers located at 200 S. Willow St. at 10:02 A.M.

I. ROLL CALL. Upon roll call the following were present:

COUNTY COMMISSIONERS: Chairwoman Natalia Macker, Vice-Chairman Luther Propst, Mark Barron, and Mark Newcomb were present in-person, and Greg Epstein was present via Zoom.

TOWN COUNCIL: Mayor Hailey Morton Levinson, Vice-Mayor Arne Jorgensen, Jonathan Schechter, and Jim Rooks were present in-person, and Jessica Sell Chambers was present via Zoom.

STAFF: Larry Pardee, Tyler Sinclair, Alyssa Watkins, Heather Overholser, April Norton, Abigail Moore, and Chalice Weichman were present in-person, and Maureen Murphy and Lea Colasuonno were present via Zoom.

II. DISCUSSION / ACTION ITEMS

a. SPET Ballot Resolution – CONTINUED FROM JULY 6, 2022

The purpose of this item is for the Town Council and County Commission to make final edits to the ballot resolution language and amounts, consider the memorandums of understanding with St. John's Health, Teton County School District No. 1, and Central Wyoming College, and to finalize and approve the ballot resolution for delivery to the County Clerk no later than Wednesday, the 20th of July 2022.

Public comment was given in-person by Lou Hochheiser, Bruce Hawtin, and Kevin Cochary, and public comment was given virtually by David Pulliam.

The meeting recessed at 11:17 A.M. and reconvened at 11:46 A.M.

The Council and Commission made changes to the SPET ballot resolution wording and the final resolution follows:

JOINT RESOLUTION APPROVING PROPOSITIONS FOR CONTINUATION OF A 1% SPECIFIC PURPOSE EXCISE TAX IN TETON COUNTY, STATE OF WYOMING, SAID PROPOSITION TO BE PLACED ON THE GENERAL ELECTION BALLOT ON NOVEMBER 8, 2022

WHEREAS, Wyo. Stat. Ann. §§39-15-204(a)(ii) and 39-15-204(a)(iii) authorize a county to impose an excise tax not to exceed two percent (2%) upon retail sales of tangible personal property, admissions and services made within the county, the revenue from which excise tax shall be used in a specified amount for specific purposes authorized by the qualified electors; said specific purposes not to include ordinary operations of local government except those operations related to a specific project; and

WHEREAS, the Board of County Commissioners of Teton County and the Mayor and Town Council of the Town of Jackson, Wyoming (hereinafter sometimes referred to as the "Governing Bodies") have agreed upon a procedure to be utilized in Teton County for the submission of specific purpose excise tax project questions to the voters of the County; and

WHEREAS, Teton County is presently imposing one percent (1%) sales and use tax for specific purpose tax authorized by Wyo. Stat. Ann. §§ 39-15-203(a)(ii) and (iii) as well as Wyo. Stat. Ann. §§ 39-15-204(a)(ii) and (iii) which tax is estimated to expire in September 2024 (the "Prior 1% Tax"); and

WHEREAS, the Town of Jackson is a first-class city but commonly refers to itself as the Town of Jackson. The use of the word "town" in this document does not denote an official statutory designation as a "town." The use of the word "town" means "city" for purposes of legal statutory designation; and

WHEREAS, the Governing Bodies have further determined that it is necessary to submit to the qualified electors of the County the proposition for the continuation of the one percent (1%) tax (hereinafter sometimes referred to as the "Tax Proposition"); and

WHEREAS, the Governing Bodies hereby notify the Teton County Clerk prior to July 20, 2022, of their intention to place the Tax Proposition for specific purposes on the November 8, 2022, general election ballot; and

WHEREAS, the Governing Bodies have further determined that the Tax Proposition should be made available for the following projects in the specific principal amounts and specific purposes set forth below and the language suggested to the County Clerk is as follows:

Shall Teton County, State of Wyoming, be authorized to adopt and cause to be continued a one percent (1%) specific purpose excise tax (the "Tax") within Teton County for the purpose of raising and collecting the amounts set forth below, the proceeds from which, and the interest earned thereon, to be used and applied for specific projects, and to the extent necessary and allowed by law, the pledge to or payment of debt service and/or lease payments thereon:

Teton Youth & Family Services Facility Improvements

$2,000,000.000 for designing, constructing, upgrading, remodeling, rebuilding, and improving Teton Youth & Family Services' existing facilities at Hirschfield Center, Van Vleck Group Home, and Red Top Meadows.

This project is sponsored by Teton County.

FOR the Proposition _____

AGAINST the Proposition _____

Transportation Alternatives and Safe Routes to School

$15,000,000 for projects to improve transportation alternatives in Teton County and the Town of Jackson, including the planning, design, engineering, and constructing of pathways and sidewalks for safe routes to school, commuting, and recreation as well as the Stilson transit center and park-n-ride facility and the purchase and installation of transit prioritization traffic signals and other public transit infrastructure. Any unexpended funds, including any unused contingency funds, shall be placed into a designated account, the principal and interest of which shall be used for operations and maintenance of these projects.

This project is sponsored by Teton County.

FOR the Proposition _____

AGAINST the Proposition _____

St. John's Health Housing

$24,000,000 for planning, design, engineering, and constructing workforce rental housing, as well as overnight lodging for on-call hospital staff and patients/families.

This project is sponsored by the Town of Jackson.

FOR the Proposition _____

AGAINST the Proposition _____

Central Wyoming College Campus

$10,000,000 for planning, designing, engineering, and constructing an approximately 21,000 square foot permanent campus for providing higher education opportunities in fields such as healthcare, early childhood education, hospitality, and language for Central Wyoming College in Teton County.

This project is sponsored by the Town of Jackson.

FOR the Proposition _____

AGAINST the Proposition _____

Energy Conservation Works Projects

$5,000,000 for funding community solar and/or other local renewable energy generation; alternative fuel transportation projects; energy audits; planning, design, and construction of energy conservation and emission reduction projects.

This project is sponsored by the Town of Jackson.

FOR the Proposition _____

AGAINST the Proposition _____

Teton County Land Conservation Opportunities

$8,000,000 for the Teton County Scenic Preserve Trust to acquire interests in state trust or private land to conserve wildlife habitat, protect open space, protect historic agricultural uses, protect scenic values, and protect public access.

This project is sponsored by Teton County.

FOR the Proposition _____

AGAINST the Proposition _____

Jackson Hole Fire/EMS Fire Station

$15,000,000 for planning, designing, and constructing a new fire station in Hoback and/or Wilson and for demolishing the existing station(s) that will be replaced.

This project is sponsored by Teton County.

FOR the Proposition _____

AGAINST the Proposition _____

Teton County School District Bronc Achievement Center
$16,505,139 for designing, constructing, and equipping a new school facility that will include indoor recreational space for community youth sports programs, academic classrooms, and laboratories.
This project is sponsored by Teton County.
FOR the Proposition _____
AGAINST the Proposition _____
Teton County School District Employee Housing
$16,000,000 for planning, designing, engineering, and constructing multi-family housing for Teton County School District employees.
This project is sponsored by the Town of Jackson.
FOR the Proposition _____
AGAINST the Proposition _____
Town of Jackson Sidewalks and Pedestrian Accessibility
$3,000,000 to improve walkability and accessibility in the Town of Jackson, including planning, designing, constructing, replacing, and installing sidewalks, accessibility features consistent with the Americans with Disabilities Act, pedestrian and bike safety features, mobility, and wayfinding signs.
This project is sponsored by the Town of Jackson.
FOR the Proposition _____
AGAINST the Proposition _____
Teton County Water Quality Projects
$10,000,000 to fund water quality projects that will protect and improve surface and ground water resources in Teton County, such as the Wilson sewer project, the Town of Jackson stormwater pollution prevention project, and projects to be identified in the Teton County Water Quality Master Plan.
This project is sponsored by Teton County.
FOR the Proposition _____
AGAINST the Proposition _____
Town of Jackson Employee Housing
$10,000,000 for the purchase of land and planning, designing, engineering, and constructing Town of Jackson employee rental housing.
This project is sponsored by the Town of Jackson.
FOR the Proposition _____
AGAINST the Proposition _____
Teton County Employee Housing
$10,000,000 for the purchase of land and planning, designing, engineering, and constructing Teton County employee rental housing.
This project is sponsored by Teton County.
FOR the Proposition _____
AGAINST the Proposition _____
Community Housing
$20,000,000 to preserve and create permanent Affordable and Workforce homes for local workers and their families. This may be accomplished through the purchase of deed restrictions and/or interests in land on which to design, plan, develop, engineer, construct deed restricted housing in conformance with the Jackson & Teton County Housing Supply Plan. The Jackson Town Council and the Teton County Board of County Commissioners must authorize and direct the expenditure of these funds.
This project is sponsored by Teton County.
FOR the Proposition _____
AGAINST the Proposition _____
Senior Center of Jackson Hole - Senior Assisted Living Planning
$1,930,000 to hire professional services to perform and provide a needs assessment, feasibility study, and proposed options for establishing senior assisted living facilities in Teton County, which may include design and planning.
This project is sponsored by Teton County.
FOR the Proposition _____
AGAINST the Proposition _____

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF TETON COUNTY, WYOMING AND THE TOWN COUNCIL OF THE TOWN OF JACKSON, STATE OF WYOMING, THAT:

1. Having determined that the Tax Proposition should be made available for the projects listed above in the specified principal amounts and for the specified purposes therein set forth, the parties hereto endorse, adopt and approve the procedures set forth in Wyo. Stat. Ann. §§ 39-15-203(a)(ii) and (iii) and §§ 39-15-204(a)(ii) and (iii).

2. No proposition shall be placed on a ballot at any election for approval by the voters of the County pursuant to Wyo. Stat. Ann. §§ 39-15-203(a)(iii) and §§ 39-15-204(a)(ii), except under the following conditions:

(a) A majority of the members of the Board of County Commissioners and a majority of the members of the Town Council must approve each ballot question to be submitted for approval prior to it being placed upon the ballot. There shall be a random drawing to determine the order in which each ballot question appears on the ballot. The Board of County Commissioners and the Town Council approve the propositions listed above to be placed on the ballot.

(b) No tax shall be imposed pursuant to Wyo. Stat. Ann. §§ 39-15-203(a)(ii) and (iii), §§ 39-15-204(a)(ii) and (iii) until the proposition to impose the tax for specific purposes in specific amounts is approved by the vote of the majority of the qualified electors voting on the proposition. All propositions to be approved by the voters at any election may be combined and contained within one or more ballot questions to be approved or disapproved by a "for" or "against" vote or each proposition may be submitted to the voters as an independent ballot question to be approved or disapproved by a "for" or "against" vote. The Board of County Commissioners and Town Council agree that each proposition shall be submitted to the voters as independent ballot questions.

(c) The revenue from the Tax shall be used in a specified amount for specific purposes authorized by the qualified electors. Specific purposes shall not include ordinary operations of local government except those operations related to a specific project.

(d) The amount of revenue to be collected and the purpose or purposes for which it is proposed shall be specified in the proposition.

(e) The election shall be held in accordance with Wyo. Stat. Ann. §§ 22-21-101 through 22-21-112.

(f) In the event a ballot question authorizing the continuation of a tax is approved by the voters, all revenue collected by the Department of Revenue from the tax shall be transferred to the State Treasurer who shall deduct one percent (1%) to defray the costs of collection of the tax and administrative expenses incident thereto, and deposit the remainder into the trust and agency fund for monthly distribution to the Teton County Treasurer.

(g) Any interest earned from the investment of the revenues may only be used for costs related to the purposes approved on the ballot, including operation and maintenance costs, and shall be distributed to each sponsoring entity in the same proportion as its cost is to the total cost of all purposes identified on the ballot.

(h) Each entity receiving revenues from the specific purpose excise tax shall:

i) Maintain its accounting in records in accordance with generally accepted accounting principles as promulgated by the American Institute of Certified Public Accountants and the Governmental Accounting Standards Board.

ii) Establish separate interest-bearing ledger accounts into which the revenues will be deposited;

iii) Deposit and record all tax receipts within the appropriate ledger account;

iv) Retain and record interest earned on each account; and

v) At the end of each fiscal year, prepare and forward to the governing bodies a report on each account showing a reconciliation of all tax receipts and the amount of interest earned thereon, and a reconciliation showing all expenditures from the account or fund, grouped by major categories or classifications.

(j) All specific projects funded by the Tax Proposition that involve construction shall be subject to a planning review pursuant to the Land Development Regulations of Teton County or the Town of Jackson, depending on where the project is located.

3. In the event the taxes collected for any project exceed the amount necessary for the approved purpose or the project does not get executed, the excess funds shall be retained by the Teton County Treasurer for one (1) year for a refund of overpayments of the Tax Revenue. After one (1) year, any interest earned on the excess funds and the excess funds less any refunds ordered shall be applied to future specific purpose excise tax projects that are approved by the voters in subsequent elections in the respective ratio which the principal amount of each future project approved bears to the total principal amount of all future projects approved. In the event that there are not future specific purpose excise tax projects that are approved by the voters in subsequent elections, to which any interest earned on the excess funds and the excess funds less any refunds ordered can be applied, then any interest earned on the excess funds and the excess funds less any refunds ordered shall be distributed to each sponsoring entity based upon the respective ratio which the principal amount of each project approved bears to the total principal amount of all projects approved. Such excess funds shall be expended for the needs of the projects for which the tax was approved by the voters, including but not

limited to the payment of additional unanticipated construction costs, related financing costs or for operating, equipping, and maintaining the specified projects.

4. Any project not directly sponsored by the Town of Jackson or the Board of County Commissioners of Teton County may be funded in part or in whole by revenues generated through Wyo. Stat. Ann.§§ 39-15-203(a)(ii) and (iii) and §§ 39-15-204(a)(ii) and (iii) provided that such funding shall be based upon the authority granted in the statutes of the State of Wyoming for the project and upon a Cooperative Services Agreement governing the project entered into between the Town of Jackson and/or the Board of County Commissioners of Teton County and the agency sponsoring the project.

5. At the November 8, 2022, between the hours of 7:00 am and 7:00 pm, there will be submitted to the qualified electors of the County those matters more particularly set forth on the official ballot and the Proclamation and Notice of Election. .

6. The election shall be held at those vote centers as more particularly set forth in the Proclamation and Notice of Election.

7. Any qualified elector in the County shall be entitled to vote in person at any vote center regardless of the precinct in which they reside, or by absentee ballot. A qualified elector includes every citizen of the United States who is a bona fide resident of the State of Wyoming and Teton County, who has registered to vote and who will be at least eighteen (18) years of age on the day of the election.

8. There shall be provided at each vote center, one (1) ballot box and one (1) set of ballots for each district and precinct in the County. The official ballot shall set forth each proposition to be approved by the vote of the majority of the qualified electors.

9. The results disclosed by the canvass of voters shall be certified by the Canvassing Board of Teton County. Only if the majority of votes cast on one or more of the Tax Propositions at the election is in favor of imposition of the Tax shall the Board of County Commissioners, in the manner provided by law, then proceed to declare the results of the election, and complete all steps necessary for the imposition of the Tax.

10. Should any part of or provision of this Resolution be judicially determined to be invalid or unenforceable, such determination shall not affect the remaining parts and provisions hereof, the intention being that each part or provision of this Resolution is severable.

PASSED, APPROVED AND ADOPTED this 18 day of June, 2022.
TOWN OF JACKSON, WYOMING
Mayor Hailey Morton Levinson
Attest: Riley Taylor, Clerk
PASSED, APPROVED AND ADOPTED THIS 18th day of June, 2022.
BOARD OF COUNTY COMMISSIONERS
OF TETON COUNTY, WYOMING
Natalia D. Macker, Chair Board of Board of County Commissioners
Attest: Maureen E. Murphy, Teton County Clerk

MOTIONS FOR MOU

On behalf of the County, a motion was made by Commissioner Barron and seconded by Commissioner Newcomb to approve the Memorandums of Understanding Between the Town of Jackson, Teton County, and St. John's Health, Teton County School District No. 1, and Central Wyoming College, respectively, and authorize the Chair of the Board of County Commissioners to execute the document presented today. Chairwoman Macker called for a vote. The vote showed all in favor and the motion carried for the County.

On behalf of the Town, a motion was made by Councilmember Schechter and seconded by Councilmember Rooks to approve the Memorandums of Understanding Between the Town of Jackson, Teton County, and St. John's Health, Teton County School District No. 1, and Central Wyoming College, respectively, and authorize the Mayor to execute the documents presented today. Mayor Morton Levinson called for a vote. The vote showed all in favor and the motion carried for the Town.

MOTIONS FOR SPET BALLOT

On behalf of the County, a motion was made by Commissioner Propst and seconded by Commissioner Newcomb to approve the ballot language as discussed and finalized at this meeting, authorize the Chair of the Board of County Commissioners to execute the resolution, and direct staff to coordinate with the Town to submit the final resolution to the Teton County Clerk for placement on the ballot no later than Wednesday July 20, 2022. Chairwoman Macker called for a vote. The vote showed four in favor and the motion carried 4-1 for the County with Commissioner Barron opposed.

On behalf of the Town, a motion was made by Councilmember Jorgensen and seconded by Councilmember Schechter to approve the ballot language as discussed and finalized at this meeting, authorize the Mayor to execute the resolution, and direct staff to coordinate with Teton County elected officials and staff as necessary to submit the final resolution to the Teton County Clerk for placement on the ballot no later than Wednesday July 20, 2022. Mayor Morton Levinson called for a vote. The vote showed all in favor and the motion carried for the Town.

Adjourn. On behalf of the County, a motion was made by Commissioner Barron and seconded by Commissioner Propst to adjourn. Chairwoman Macker called for a vote. The vote showed all in favor and the motion carried for the County.

On behalf of the Town, a motion was made by Councilmember Schechter and seconded by Councilmember Rooks to adjourn. Mayor Morton Levinson called for a vote. The vote showed all in favor and the motion carried for the Town.

The meeting adjourned at 12:24 P.M.

TETON COUNTY BOARD OF COUNTY COMMISSIONERS

_____
Natalia D. Macker, Chairwoman

ATTEST:

_____
Maureen E. Murphy, County Clerk

TOWN OF JACKSON

_____
Hailey Morton Levinson, Mayor

ATTEST:

_____
Town Clerk

BOARD OF COUNTY COMMISSIONERS

TOWN COUNCIL

JOINT INFORMATION MEETING
AGENDA DOCUMENTATION

SUBMITTING DEPARTMENT: Teton County Public Works **PRESENTER**: Heather Overholser
MEETING DATE: August 1, 2022
SUBJECT: BUILD GRANT – Town of Jackson/Teton County Subrecipient Agreement

STATEMENT/PURPOSE

To consider a Subrecipient Agreement between the Town of Jackson and Teton County for the Teton Mobility Corridor Improvements (TMCI) BUILD Grant project components that are joint projects of the Town and County. The internal deadline for signing this agreement is August 1, 2022. Without approval of the required Subrecipient Agreements, the BUILD grant funding is jeopardized.

BACKGROUND/ALTERNATIVES

In spring 2020, Teton County, Wyoming, was solicited to apply as lead agency to the U.S. Department of Transportation (DOT) for a discretionary and competitive BUILD Grant on behalf of the community and numerous funding partners in Wyoming and Idaho for the TMCI Project, which was projected to cost approximately $28M, with a local match contribution of approximately $8.3M (including a private party land contribution of $3.1M). In fall 2020, the Office of the Secretary of Transportation (OST) announced that Teton County had been selected to receive a BUILD Grant award in the amount of $20 million for the TMCI Project, to be administered by the Federal Transit Administration (FTA).

Under the BUILD Grant, the TMCI Project and all its 13 Project Components must be completed using at least the level and ratio of local match funding that was specified in the 2020 application (federal/local ratio of about 75/25). In addition to the local match, costs that exceed the estimated costs set forth in the 2020 BUILD Grant application are not eligible for reimbursement with BUILD Grant funds and must be funded locally. This obligation was clearly set forth in the BUILD Grant Notice of Funding Opportunity[1] and conveyed to all of the local funding and supporting partners who collaborated on development of the TMCI Project set forth in the BUILD Grant Application. Each partner submitted a letter of support to the U.S. Secretary of Transportation committing to the TMCI Project and the BUILD Grant Application – a necessary element to secure this competitively awarded grant.

Direct Recipients[2] of BUILD Grant funding assume all risk and are responsible for ensuring that all applicable federal program and grant requirements are met to retain their eligibility for funds. The County as the Direct Recipient of the BUILD Grant is required to have agreements in place with every Component Project lead agency (or Subrecipient) of this federal assistance to ensure that TMCI and all component projects are financed, constructed, operated, and maintained in accordance with all applicable federal laws, regulations, and policies.

The purpose of this Teton County/Town of Jackson Subrecipient Agreement is twofold:

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[1] "*For each project that receives a BUILD Transportation grant award, the terms of the award will require the recipient to complete the project using at least the level of non-Federal funding that was specified in the application.* ***If the actual costs of the project are greater than the costs estimated in the application, the recipient will be responsible for increasing the non-Federal contribution***." (emphasis supplied). Notice of Funding Opportunity for the Department of Transportation's National Infrastructure Investments under the Consolidated Appropriations Act, 2020 (G4910-9X), Section C.2 at p.7.

[2] Teton County was also required to become a Direct Grant Recipient with FTA in order to secure the BUILD funds, a protracted administrative process for new grantees, which was expedited by FTA to ensure approval within the BUILD timelines.

(1) To set forth the parties' joint responsibility for the obligatory local match and for payment of all actual costs of the four (4) START transit related TMCI Component Projects, including those costs that exceed cost estimates in the 2020 grant application, as required by the BUILD program and federal requirements and in conformance with the parties Joint Powers Agreement regarding START transit related expenses; and

(2) To provide for the Town of Jackson obligations as lead agency and a Subrecipient to the County of the federal BUILD funding for those projects, including serving as the Project Component Lead for the four (4) Town/County joint transit related TMCI Project Components to be funded by the BUILD Grant.

BUILD Grant Schedule

The FY 2020 Appropriations Act requires that FY 2020 BUILD Transportation grants funds are available for "obligation" only through September 30, 2022. Obligation occurs when the selected grant applicant and DOT enter into a written grant agreement (after the applicant has satisfied applicable administrative requirements, including transportation planning and environmental review requirements). Teton County's BUILD Paper Grant Agreement (PGA), which was developed over the last year in close collaboration with FTA Region 8 and other DOT staff, has been submitted to OST for a comprehensive internal review by multiple federal agencies.

The County has received signed Subrecipient Agreements from Teton County, Idaho and the City of Driggs, Idaho, and will shortly receive a signed Subrecipient Agreement from the Idaho Transportation Department for the TMCI Project Components No. 8 to 13 to be funded the BUILD Grant. The Teton County Board of County Commissioners are scheduled to consider these agreements on Tuesday August 2nd in order to meet grant obligation deadlines.

A contingent of federal officials from FTA Region 8 and the Office of the U.S. Secretary of Transportation are due to arrive in Jackson on August 10th for a three-day site visit and meetings. They will be touring the Town's START facility, riding the START bus and e-bikes on our pathways, and visiting the site of the future Stilson Transit Center & Park-N-Ride, all County project sites and the Idaho project sites to be developed with BUILD Grant funds.

Town of Jackson/START Transit Related BUILD Projects

The four (4) START transit related TMCI Component Projects to be undertaken by the Town of Jackson[3] but with the local financial obligation to be shared between the Town and County are as follows:

- **Project Component 1: Stilson Transit Center/Park-n-Ride* and Beckley Parkway Traffic Signal**
  Construction of a START transit center, access road improvements, park & ride lot, pedestrian and bicycle interconnections, bike parking, and signal at the Wyoming Highway 390 (WY-390) intersection
  *The BUILD Grant Application states "*JHMR has committed to convey 5 .7 acres of land upon which the transit center would be constructed, resulting in a collaborative public-private partnership between JHMR and START.*"

- **Project Component 2: Transit Signal Prioritization**
  Purchase and installation of vehicle computer units to outfit 30 START buses, along with purchase and installation of priority detectors and associated components in traffic signal cabinets at 13 signalized intersections.

- **Project Component 3: START Commuter Buses**
  Purchase of four commuter coaches.

- **Project Component 4: START Electric Buses**

[3] Teton County is undertaking and is solely responsible for the local match and financial obligation for Project Component 5: Wilson Active Transportation Improvements (construction of continuous active transportation facilities along WY-22 through Wilson linking regional pathways); Project Component 6: Wilson to Stilson Pathway (construction of pathway and underpass below WY-22 linking Wilson to the planned Stilson Park Transit Center); and Component Project 7:Greater Yellowstone Teton Pass Trail (construct next phase shared use pathway from Trail Creek Campground to Coal Creek).

The purchase of two all-electric buses

BUILD Schedule for Component Projects 1-4:
Local funding for the START transit related TMCI Component Projects will be required by Town of Jackson and Teton County per the following schedule (calendar year not fiscal year) as set forth in the BUILD Paper Grant Agreement:

Component	Original Start	*Revised Start*	Original End	*Revised End*
1	2021 Q1 2022 Q2 2023 Q2	*2021 Q3* *no change* *2024 Q1*	2021 Q3 2023 Q1 2023 Q3	*2022 Q3* *2023 Q4* *2025 Q3*
2	(exempt) 2022 Q2 2022 Q3	*(exempt)* *2022 Q3* *2024 Q1*	(exempt) 2022 Q2 2022 Q3	*(exempt)* *2023 Q4* *2024 Q4*
3	(exempt) NA 2022 Q2	*(exempt)* *NA* *2023 Q2*	(exempt) NA 2022 Q3	*(exempt)* *NA* *2023 Q3*
4	(exempt) NA 2022 Q2	*(exempt)* *NA* *2023 Q2*	(exempt) NA 2022 Q3	*(exempt)* *NA* *2023 Q3*

Schedule Legend: Environmental & Permitting, Final Design, Construction

START Joint Powers Agreement
The *First Amendment to the Agreement Establishing Jackson-Teton County Joint Powers Transit System* (June 6, 2011) states:

> "The Town and County shall each finance joint and cooperative undertaking by the appropriation by each Party based upon the percentage of the most current census data utilized by the State of Wyoming in making sales tax distributions to the Town of Jackson and Teton County."

The Subrecipient Agreement presented reflects this agreement.

COMPREHENSIVE PLAN ALIGNMENT

- Section 2. Climate, Sustainability through Energy Conservation
  - Principle 2.3- reduce energy consumption through transportation. Transportation accounts for approximately 80% of the total carbon emissions in the community.
- Section 7. Multimodal Transportation
  - Principle 7.1- Meet future transportation demand through the use of alternative modes. Alternative Transportation means a transportation system that includes transit, bicycle, and pedestrian modes which offer alternatives to private motor vehicle travel for many trips.
  - Principle 7.2. Create a safe, efficient, interconnected muti-modal transportation network.

STAKEHOLDER ANALYSIS

The direct stakeholders are Teton County and the Town of Jackson/START. Additional partners in the TMCI BUILD Grant Project that will receive BUILD funding are: Teton County, Idaho; City of Driggs, Idaho; and, the Idaho Transportation Department. Other partners include the Jackson Hole Mountain Resort, which is contributing the land on which the Stilson Transit Center & Park-n-Ride will be built, the Wyoming Department of Transportation, Grand Targhee Resort, Wyoming Pathways, City of Victor, and the community of Wilson, Wyoming.

FISCAL IMPACT

The following chart contains the most recent cost estimates (July 2022) for BUILD TMCI Project Components No. 1 through 4 developed in close collaboration between the BUILD Grant Consultant team (Jorgensen Associates - including their professional estimator), START, and Teton County.

TC-TOJ/START BUILD Components

2022 Estimate Includes: (Design/Construction/Construction Management/Contingency)										
#	Description	2020 BUILD Project Estimate		July 2022 UPDATED Project Estimate	Agency	2020 BUILD Estimated Local Match 54/46%	2022 Recalculated Local Match	2022 Overage from 2020 Project 54%/46%	2022 Recalculated Federal Share (BUILD funds)	ESTIMATED Local Share (match + overage) "All In"
1	Stilson Transit Center & 390 Signal	$5,640,000		$9,457,384	County	N/A – JHMR -Local Match Through Parcel In-Kind Donation	N/A – JHMR - Local Match Through Parcel In-Kind Donation	Increase $4,298,000	$5,640,000	$2,061,387
					Town					$1,755,997
2	Transit Signal Prioritization	$216,000		$763,020	County 54%	$32,000	$22,635	Increase $547,020	$173,312	$318,442
					Town 46%	$26,000	$19,282			$271,266
3	START Commuter Buses (4)	$2,521,000		$3,027,581	County 54%	$374,000	$265,168	Increase $506,581	$2,030,340	$538,510
					Town 46%	$306,000	$225,884			$458,731
4	Start Electric Buses (2)	$1,832,000		$1,860,000	County 54%	$272,000	$192,687	Increase $28,000	$1,475,370	$207,581
					Town 46%	$222,000	$164,141			$176,828
TOTAL					County	$678,000	$480,490	TOTAL Increase $5,379,601	$9,319,022	$3,125,921
					Town	$554,000	$409,306			$2,662,821

STAFF IMPACT

County Public Works staff is leading the BUILD Grant effort on behalf of all project partners. Town staff will serve as project lead, and County staff will serve as support, for the four project components identified in this Subrecipient Agreement.

ATTACHMENTS

- BUILD Transportation Grant Subrecipient Agreement Between Teton County, WY and Town of Jackson, WY, including Attachments A-1, A-2, B and C
- 2020 START Letter of Support to U.S. Secretary of Transportation Elaine Chao pledging support for BUILD Grant Application submitted by Teton County as lead agency/applicant on behalf of local partners
- 2020 Teton County, Wyoming Letter of Support to U.S. Secretary of Transportation Elaine Chao committing local funding obligations and all responsibilities as lead applicant

SUGGESTED MOTIONS

(a) I move that the Town of Jackson Town Council approve the BUILD Transportation Grant Subrecipient Agreement between the Town of Jackson and Teton County, Wyoming as presented.

(b) I move that the Teton County Board of County Commissioners approve the BUILD Transportation Grant Subrecipient Agreement between the Town of Jackson and Teton County, Wyoming as presented.

FY2022 BUILD TRANSPORTATION GRANT
TETON MOBILITY CORRIDOR IMPROVEMENTS (TMCI)

SUBRECIPIENT AGREEMENT
TETON COUNTY, WYOMING AND
TOWN OF JACKSON, WYOMING/
SOUTHERN TETON AREA RAPID TRANSIT (START)

Federal Award Information	**Federal Agency:** Federal Transit Administration (FTA)
Federal Award Recipient /Pass-through Entity: Teton County, Wyoming	**Total Federal Award to Recipient:** $20,000,000.00
Federal Assistance Listing Title: National Infrastructure Investments RAISE (formally BUILD) Grant	**Federal Assistance Listing No.** 20.933 **Indirect Cost Rate (ICAP):** n/a
Federal Award Identification Number (FAIN): 6928-2022-1	**Federal Award Date:** *To be inserted and cover page redistributed upon identification of FAIN in FTA executed Grant Agreement*
Recipient/Pass-through Entity Contact: Heather Overholser Teton County Director of Public Works Phone: 307-732-8580 Email: hoverholser@tetoncountywy.gov	**FTA Contact:** Victor Waldron BUILD Transportation Program Manager Federal Transit Administration Phone: 202-366-5183 Email: victor.waldron@dot.gov
Awarded Project Name and Description: Teton Mobility Corridor Improvements (TMCI) TMCI is composed of the thirteen (13) distinct Project Components in Wyoming and Idaho per the BUILD Grant Application submitted on or about May 15, 2020	
Subrecipient Information	
Subrecipient Name: Town of Jackson, Wyoming/ Southern Teton Area Rapid Transit (START)	**Subrecipient DUNS:** 137683533
Subrecipient Contact: Bruce Abel, Interim Director PO Box 1687 55 Karns Meadow Drive Jackson, WY 83001 Phone: (307)733-4521 Email: babel@jacksonwy.gov	**Federal Subaward Amount per TMCI Project Components:** Project Component 1: $5,640,000.00 Project Component 2: $ 173,312.00 Project Component 3: $2,030,340.00 Project Component 4: $1,475,370.00
Subrecipient Project Total Budget (with Local Share*): $18,207,764.00** Project Component 1: $12,557,384.00** Project Component 2: $ 763,020.00 Project Component 3: $ 3,027,581.00 Project Component 4: $ 1,859,779.00 *Local Share amounts to be contributed from both Town of Jackson/START and Teton County, WY. **Includes private party in-kind land contribution valued in the amount of $3.1M. Budget for Project Component No. 1 minus the in-kind land transfer is $9,457,384; Total Subrecipient Project Budget minus the in-kind land transfer valuation is $15,107,764.	**Total Federal Subaward Amount:** $9,319,022.00
Subaward Period of Performance Start and End Date: Effective Date through September 30, 2027	

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Subaward Scope of Work / Subrecipient TCMI Project Component(s):
Project Partner and Subrecipient Town of Jackson/Southern Teton Area Rapid Transit (START) is undertaking four (4) of the TCMI Component Projects. Specifically:

TMCI Project Component 1: Stilson Transit Center and Park-n-Ride; Beckley Parkway Traffic Signal:
Description: Construction of a transit center, access road improvements, park-n-ride lot, pedestrian and bicycle interconnections, bike parking, and signal at the Wyoming Highway 390 (WY-390) intersection

TMCI Project Component 2: Transit Signal Prioritization
Description: Purchase and installation of vehicle computer units to outfit 30 buses, along with purchase and installation of priority detectors and associated components in traffic signal cabinets at 13 signalized intersections

TMCI Project Component 3: START Commuter Buses
Description: Purchase of four commuter coach/ buses

TMCI Project Component 4: START Electric Buses
Description: Purchase of two 40 foot all electric buses

Collectively "Subrecipient Project"

1. **Parties**. The parties to this Subrecipient Agreement (Agreement) are Teton County, Wyoming (County) whose address is 200 S. Willow Street, P.O. Box 1727, Jackson, WY 83001, and the Town of Jackson, Wyoming/Southern Teton Area Rapid Transit (START) (Subrecipient), whose address is 150 E. Pearl Avenue, P.O. Box 1687, Jackson, WY 83001.

2. **Purpose/Scope of Work**. This is a subaward of federal financial assistance from the Recipient to Subrecipient related to the Teton Mobility Corridor Improvements (TMCI) Project for which County applied for and was awarded a FY2020 Better Utilizing Investments to Leverage Development (BUILD) grant from the U.S. Department of Transportation, to be administered by the Federal Transit Administration (FTA).

   County and Subrecipient desire to utilize the awarded BUILD grant funds for the multimodal regional public transportation and safety needs of rural areas within the States of Wyoming and Idaho as more specifically set forth in the BUILD Grant Application submitted by Teton County on behalf of itself and the Project Partners/Subrecipients.

   The purpose of this Agreement is (1) to set forth the parties commitment to be jointly responsible for the obligatory local share of costs and for payment of all actual Subrecipient Project costs, including those that exceed estimates, as required by the BUILD program and federal requirements; and (2) to provide for the Subrecipient's undertaking of the following listed TMCI Component Projects as lead agency in accordance with this Agreement, County's BUILD Grant Agreement with the Department of Transportation and FTA's Master Agreement (FTA MA 29) that serves as the general terms and conditions for all Grant Agreements administered by FTA (Grant Agreement), and the annual FTA Certifications and Assurances required by all Recipients and Subrecipients of federal assistance all of which are incorporated herein by this reference.

DRAFT MAY 2022

The TMCI Component Projects to be undertaken by Subrecipient are:

TMCI Project Component 1: Stilson Transit Center and Park-n-Ride and Beckley Parkway Traffic Signal
Description: Construction of a transit center, access road improvements, park & ride lot, pedestrian and bicycle interconnections, bike parking, and signal at the Wyoming Highway 390 (WY-390) intersection

TMCI Project Component 2: Transit Signal Prioritization
Description: Purchase and installation of vehicle computer units to outfit 30 buses, along with purchase and installation of priority detectors and associated components in traffic signal cabinets at 13 signalized intersections

TMCI Project Component 3: START Commuter Buses
Description: Purchase of four commuter coaches

TMCI Project Component 4: START Electric Buses
Description: Purchase of two all-electric buses

(Collectively "Subrecipient Project").

3. **Term of Agreement.** This Agreement is effective when all parties have executed it (Effective Date). This Agreement will not expire until all responsibilities and obligations of Subrecipient, and County related to the TMCI Project are fulfilled and satisfied or otherwise cease under this Agreement, the Grant Agreement, and all applicable federal law, regulations, requirements, and other guidance as may be amended.

   The Subrecipient's timeframe to complete the work for the Subrecipient Project (Period of Performance) is from the Effective Date through 120 days after the last milestone per the Grant Agreement (and as entered in TrAMS[1]) but no later to allow project final acceptance and full reimbursement from FTA by September 30, 2027, which is the federal deadline by which FY 2020 awarded BUILD funds must be expended and beyond which unliquidated BUILD funds awarded will no longer be available for the TMCI Project.

4. **Payment.**

   A. Maximum Federal Assistance Amount for Allowable Costs. County agrees to reimburse the Subrecipient with federal funds provided by FTA for all allowable costs of the Subrecipient Project under the terms and conditions set forth in this Agreement. **The total federal reimbursement shall not exceed $9,319,022.00, which is comprised of the granted discretionary federal award amount allocated for the Subrecipient Project (TMCI Project Components 1, 2, 3, and 4)**.

   B. Local Match and Overages.

[1] Transit Award Management System (TrAMS) is FTA's platform to award and manage federal grants.

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i. Joint Obligation. Subrecipient and County acknowledge that a requirement of the BUILD Grant Agreement and federal requirements is that local funds be provided in an amount sufficient to assure payment of the local share requirement ("Local Match") and all actual TMCI Project costs and Subrecipient Project costs, including those costs that exceed the estimates in the 2020 BUILD Grant application and costs that exceed the present Subrecipient Project Total Budget ("Overage"). County and Subrecipient agree to be jointly responsible for these costs of the Subrecipient Project (collectively "Local Obligation") in percentages equal to those the parties share pursuant to their Joint Powers Agreement in the manner set forth below.

ii. Subrecipient Percentage of Local Obligation.

a. Subrecipient agrees to provide local funds in an amount sufficient to assure payment of the Local Match and Overage in an amount equal to 46% of this Local Obligation for the Subrecipient Project.

b. The present Subrecipient Project Total Budget based on current cost estimates is **$15,107,764** (Component 1 {excluding land contribution value} = $9,457,384; Component 2 = $763,020; Component 3 = $3,027,581; Component 4 = $1,859,779). The Local Obligation of required funds from both Subrecipient and County based on current cost estimates is **$5,788,742 of which 46%is the obligation of Subrecipient. Therefore, under current estimates, Subrecipient is financially responsible for $2,662,822** (Component 1 = $1,755,997; Component 2 = $271,266; Component 3 = $458,731; Component 4 = $176,828). These dollars are current estimates based on preliminary planning and the actual costs are subject to change.

iii. County Percentage of Local Obligation.

a. County agrees to provide local funds in an amount sufficient to assure payment of the Local Match and Overage in an amount equal to 54% of this Local Obligation for the Subrecipient Project.

b. The present Total Project Budget based on current cost estimates is **$15,107,764** (Component 1 {excluding land contribution value} = $9,457,384; Component 2 = $763,020; Component 3 = $3,027,581; Component 4 = $1,859,779). The Local Obligation of required funds from both Subrecipient and County based on current cost estimates is **$5,788,742 of which 54% is the obligation of County. Therefore, under current estimates County is financially responsible for $3,125,921** (Component 1 = **$2,061,387**; Component 2 = $318,443; Component 3 = $538,510; Component 4 = $207,581). These dollars are current estimates based on preliminary planning and the actual costs are subject to change.

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iv. Initial Payment of Subrecipient Project Costs Between the Parties. Subrecipient shall pay all costs for the Subrecipient Project and will submit invoices to County in a form and on a schedule to be agreed upon by the parties reflecting 54% of those costs ("County Invoice"), the amounts of which will be paid to Subrecipient by County within 45 days.

C. Allowable Subrecipient Project Costs to be Reimbursed With Federal Assistance. Costs will be reimbursed with federal assistance according to the federal law, regulations, requirements, and guidance that is applicable to the BUILD Program and the TMCI Project and the Grant Agreement. The federal reimbursement amount payable to Subrecipient from County will be 46% of the actual federal assistance received by County from FTA for those costs accepted as allowable and approved by FTA for the Subrecipient Project. Costs submitted to FTA for reimbursement are subject to the compulsory Federal/Local Share Ratio under the Gant Agreement as set forth below and the total federal reimbursement shall not exceed the maximum federal assistance available for the Subrecipient Project as set forth in Section 4.A.

Federal Share:	80.5%
Local Share:	19.5%

D. Invoices and Support Documentation for Federal Reimbursement. Requests for federal reimbursement shall be submitted to County by Subrecipient for submission to FTA only upon receipt, delivery, and full payment for the services, materials, and equipment contemplated by this Agreement and through submission to the County of a sufficient and acceptable invoice with the necessary supporting documentation as determined by the County ("Federal Reimbursement Request"). Federal Reimbursement Requests must contain sufficient detail to ensure that the requested reimbursement is made in conformance with this Agreement and FTA and federal requirements. County reserves the right to request additional supporting documentation for any and all submissions to ensure compliance with this Agreement and with County's obligations as Recipient.

Supporting documentation required for federal reimbursement of allowable costs for the Subrecipient Project shall include, but is not limited to, the following:

Reimbursement for TMCI Project Component 1 - Stilson Transit Center
- Copy of contractor's pay application / invoice
- Copy of proof of payment made to contractor
- Copy of any federally required documents

Reimbursement for TCMI Project Component 2 - Transit Prioritization Equipment:
- Copy of vendor invoice(s)
- Copy of WYDOT installation invoice
- Copy of proof of payment made to vendor and WYDOT as applicable

Reimbursement for TCMI Project Components 3 and 4 - Vehicle Capital purchases:
- Copy of vendor invoice
- Copy of proof of payment to the vendor for vehicle(s)
- Completed Compliance Certification, **Attachment A,** which is attached to and

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incorporated into this Agreement by this reference.

- Copy of the vehicle title with "Teton County, WY Grant Restricted" printed on the title per Continuing Control Acknowledgement, **Attachment B**, which is attached to and incorporated into this Agreement by this reference.

E. FTA Authorization and Disbursement. Reimbursement to the Subrecipient in the amount and ratio authorized in this Agreement shall be made after Teton County receives approval for the reimbursement and has received the approved reimbursement funds from the FTA.

F. Reimbursement from federal assistance funds is conditional upon Subrecipient's full payment for all services rendered or items received. Subrecipient shall provide proof and certification of such payment with all requests for federal reimbursement on a form approved by County.

G. Final invoices for federal reimbursement must be submitted to County within 30 days of the end of the Period of Performance per Section 3 above but no later than 120 days after the last milestone set forth for the Subrecipient Project in the Grant Agreement to allow project final acceptance and full reimbursement from FTA by September 30, 2027, which is the federal deadline by which FY 2020 awarded BUILD funds must be expended and beyond which unliquidated BUILD funds awarded will no longer be available for the TMCI Project.

H. Except as otherwise provided in this Agreement, Subrecipient shall pay all costs and expenses, including travel, incurred by Subrecipient, or those working directly on its behalf, in connection with Subrecipient's performance and compliance with all Subrecipient obligations under this Agreement and its undertaking of the Subrecipient Project. This does not include any professional services provided by the BUILD Consultant hired by the County (Jorgensen Associates) that are paid jointly by the parties though a separate Letter of Agreement.

I. No federal reimbursement shall be made for work performed or equipment procured before the Effective Date of this Agreement. Should the Subrecipient fail to perform in a manner consistent with the terms and conditions set forth in this Agreement, reimbursement of costs with federal assistance under this Agreement may be withheld until such time as Subrecipient performs its duties and responsibilities to the satisfaction of County.

5. **Rights and Responsibilities of the Parties**.

A. County. County agrees to pay Subrecipient and reimburse Subrecipient with federal assistance in accordance with Section 4 above.

B. Subrecipient. Subrecipient shall procure, install, purchase, and undertake the completion of the Subrecipient Project in accordance with Subrecipient's procurement procedures, in accordance with this Agreement and all applicable federal requirements, and as described in the BUILD Grant Application, which is incorporated into this Agreement by this reference. This shall include but is not limited to the following activities:

i. **TMCI Project Component 1: Stilson Transit Center and Park-N-Ride**

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Construction of a transit center, access road improvements, park & ride lot, pedestrian and bicycle interconnections, bike parking, and signal at the Wyoming Highway 390 (WY-390) intersection

ii. **TMCI Project Component 2: Transit Signal Prioritization (TSP)**
The Purchase and installation of hardware units (and associated software) for Transit Signal Prioritization (TSP) units in twelve (12) existing and one (1) proposed traffic signal cabinet(s); and purchase and install vehicle computer units to outfit 30 buses.

iii. **TMCI Project Component 3: START Commuter Buses**
The purchase of four commuter coaches.

iv. **TMCI Project Component 4: START Electric Buses**
The purchase of two all-electric buses

C. Monitoring Activities. County has the right to monitor all activities related to this Agreement. County has hired the professional services of Jorgensen Associates, Inc. (Jorgensen) to act as an agent for the County and provide construction management and administration services related to the TMCI Project and all Component Projects as well as for grant management. As County's agent, Jorgensen shall monitor, inspect, test and provide document control for all activities related to this Agreement that are performed by the Subrecipient's selected contractor/vendor(s). This shall include, but is not limited to, coordination with the Subrecipient's procurement team; bringing experts and consultants on site to examine, test, monitor or evaluate completed work or work in progress; preparing and maintaining the books, ledgers, documents, papers, and records pertinent to this Agreement; and observing personnel and agents of Subrecipient in every phase of the performance of the work related to the Project. Subrecipient may propose to County for approval, a qualified construction management administration team or team member provided by Subrecipient to perform the equivalent duties of Jorgensen.

D. Records and Reports.

i. **Establishment and Maintenance of Accounting Records**. The Subrecipient shall establish and maintain separate accounts for the Subrecipient Project, either independently or within its existing accounting system, to be known as the Subrecipient Project Account.

ii. **Documentation of Project Costs**. All charges to the Subrecipient Project Account shall be supported by properly executed invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges. Copies and/or supporting documentation of such invoices, contracts or vouchers may be included with monthly billing statements to cover all charges submitted for payment. The original documentation should be maintained by the Subrecipient in the Subrecipient Project file and must be available to County upon request.

iii. **Checks, Orders and Vouchers**. Any check or order drawn by the Subrecipient with respect to any item which is or will be chargeable against the Subrecipient Project

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Account will be drawn only in accordance with a properly signed voucher then on file in the office of the Subrecipient stating in proper detail the purpose for which such check or order is drawn. All checks, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to the Subrecipient Project shall be clearly identified, readily accessible and, to the extent feasible, kept separate and apart from all other such documents.

iv. **Reports**. The Subrecipient shall advise County regarding the progress of the Subrecipient Project at such times and in such manner as County may require, including, but not limited to meetings and interim reports. The Subrecipient shall submit, accompanying the monthly reimbursement report, ridership data reports as applicable. If deemed applicable, requests for reimbursement will not be processed for payment by County without a completed ridership data form for the period of the reimbursement request. The Subrecipient shall submit to County, or its authorized representatives, an inventory of all vehicles, facilities, and equipment purchased by the Subrecipient as part of the Subrecipient Project, all transportation services rendered by the Subrecipient by the use of such vehicles, facilities and equipment, and all relevant Subrecipient Project data and records. The Subrecipient shall also permit the above-named persons to examine the books, records, and accounts of the Subrecipient pertaining to the Subrecipient Project. If the Subrecipient has an audit performed for their own purposes, the Subrecipient agrees to provide County with a copy of such audit report. The Subrecipient shall keep records and audit reports on file for three years after the close of their fiscal year.

E. Prohibited Interest**.** No member, officer, or employee of the Subrecipient during his tenure or one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

F. Restrictions, Prohibitions, Controls and Labor Provisions**.**

i. **Equal Employment Opportunity**. In connection with carrying out the Subrecipient Project, the Subrecipient shall not discriminate against any employee or applicant for employment because of race, color, age, creed, sex, national origin or disability. The Subrecipient shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, sex, age, national origin or disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

ii. **Disadvantaged Business Enterprise (DBE) Requirements**.

a. Policy. Disadvantaged business enterprises, defined as Minority Business Enterprises and Woman Business Enterprises, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26 applies to this Agreement.

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b. DBE Obligation. The Subrecipient agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard, all Subrecipients shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBE's have the maximum opportunity to compete for and perform contracts. The Subrecipient and its sub-Subrecipients shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of contracts related to this Agreement.

iii. **Title VI Civil Rights Act of 1964**. The Subrecipient shall comply, and shall assure its contractors and subrecipients comply, with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (49 U.S.C. 2000d), the Regulations of the Department of Transportation (DOT) issued thereunder, 49 CFR Part 21, and the Assurance submitted by the Subrecipient pursuant thereto.

Subrecipient shall comply with all requirements of County's Title VI Plan and shall cooperate fully in its implementation.

iv. **Compliance with Elderly and Disabled Regulations**. The Subrecipient shall comply with applicable regulations regarding transportation for Elderly and Disabled person, set forth in 49 CFR Part 27 and the Americans with Disabilities Act of 1990.

v. **49 U.S.C. § 5333**. The Subrecipient agrees that labor standards of 49 U.S.C. § 5333 apply to this Agreement. The Certifications and Warranties are available from the FTA and County upon request and are incorporated by reference into this Agreement. Below is a brief summary of the requirements as well as program applicability.

a. Prevailing Wage Requirements. Construction work financed in whole or part by the FTA shall require that the provisions of Davis-Bacon Apply.

b. Employee Protective Arrangements. As a condition of 49 U.S.C. §§ 5307-5312, 5337 and/or 5339, employers are required to provide workers with basic protections as required by the Department of Labor. This includes the Special Warranty; details can be found on the Department of Labor's website at http://www.dol.gov/olms/regs/compliance/compltransit.htm or may be obtained by contacting the Department at (202) 693-0126.
An employer who receives Federal mass transit funds must protect all covered mass transit employees affected by the use of the Federal money. The Department of Labor must approve the arrangements made to protect these employees. For covered employees the arrangements include:

1. preserving their rights and benefits;
2. continuing their collective bargaining rights;
3. protecting them against a worsening of their employment conditions;

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4. assuring jobs for employees of acquired mass transit systems;
5. providing priority of reemployment if the employee is laid off or his job is eliminated; and
6. providing paid training.

G. Domestic Preferences for Procurement. A preference for the purchase, acquisition, or use of goods, products or materials produced in the United States is required (including but not limited to iron, aluminum, steel, cement, and other manufactured products) in accordance with 2 CFR 200.322.

H. Prohibition of Certain Telecommunications and Video Surveillance Services or Equipment**.** Prohibits procuring, obtaining, extending, renewing or entering into contracts for equipment or services from manufacturers listed in 2 CFR 200.216.

I. Never Contract with the Enemy. Federal awarding agencies and Subrecipients are subject to the regulations implementing Never Contract with the Enemy in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered contracts, grants, and cooperative agreements that are expected to exceed fifty thousand dollars ($50,000.00) within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities in accordance with 2 CFR 200.215.

J. Required Clauses. The Subrecipient shall include in all subcontracts and entered into pursuant to this Agreement all of the above required clauses and those federal clauses included in **Attachment "C".** In addition, the following required provision shall be included in any advertisement of invitation to bid for any procurement under this Agreement: **"Statement of Financial Assistance. This Agreement is subject to a financial assistance contract (Grant Agreement) between Teton County, WY and the Federal Transit Administration."**

6. Additional Responsibilities For Subrecipient Town of Jackson/START.

A. FSRS Ridership Reporting. This Agreement is required to comply with the Federal Funding Accountability and Transparency Act (FFATA) of 2006. As the Direct Recipient of these funds, County will is required to report certain information to the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS). Subrecipient will provide County with all ridership and inventory information necessary for the quarterly and other reporting required. The FFATA requires any person or entity receiving contract or grant funds directly from the federal government to report certain information regarding those funds through a centralized website, www.fsrs.gov. The law requires Subrecipient to provide its Data Universal Numbering System (DUNS) number to County. If Subrecipient does not already have a DUNS number, it can be obtained by registering with Dun & Bradstreet. Instructions for this process can be found at www.dnb.com. Additional information regarding this Act may be found at the following sites:

- http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf

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- http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf

B. Title to Project Equipment. Title to all Subrecipient Project equipment shall be in the name of the Subrecipient subject to the restrictions on use and disposition of the Subrecipient Project equipment set forth herein. The following notification shall be typed on the face of the title document of each vehicle by the County Clerk: **"Teton County, WY Grant – Restricted."** It is the responsibility of the Subrecipient to ensure the County Clerk is notified of this requirement per **Attachment "B"**.

C. Use of Project Equipment.

i. The Subrecipient agrees that the Subrecipient Project equipment, buses, and/or facilities, shall be used for the purpose for which it was acquired, as long as it is needed in the Subrecipient Project and per the following expected useful life:

Component 1: Stilson Transit Center:
Useful Life Expectation: 50 years

Component 2: Transit Signal Prioritization:
Useful Life Expectation: 5 years

Components 3 and 4: Electric and Commuter Buses
Useful Life Expectations: 500,000 miles/ 14 years

ii. The Subrecipient shall immediately notify County in all cases where Subrecipient Project equipment is used in a manner substantially different from that described in the Subrecipient Project description.

iii. If the Subrecipient Project equipment or buses are no longer needed, or cannot be used for the intended purpose, prior to selling or otherwise disposing of the Subrecipient Project equipment, the Subrecipient shall immediately notify County. Before selling or otherwise disposing of the Subrecipient Project equipment, the Subrecipient must receive a notification from County, allowing the sale or disposal.

iv. The Subrecipient shall not execute any lease, pledge, mortgage, lien, or other contract touching or affecting the Federal interest in any Subrecipient Project equipment, nor shall it obligate itself in any other manner, with any third party with respect to the Subrecipient Project equipment, unless such lease, pledge, mortgage, lien, contract, or other obligation is either in conformance with the standards of FTA guidelines or is otherwise expressly authorized in writing by Teton County, WY; nor shall the Subrecipient or any other organization that obtains facilities or equipment through this Grant, by any act or omission of any kind, impair its continuing control over the use of Subrecipient Project equipment.

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v. The Subrecipient shall maintain satisfactory records with regard to the use of the property and submit to County upon request such information as is required in order to assure compliance with this section.

vi. The Subrecipient shall maintain an amount and form satisfactory to County and such insurance or self-insurance as will be adequate to protect Subrecipient Project equipment throughout the period of required use.

vii. During the period of contract performance, the Subrecipient shall maintain the Subrecipient Project equipment at a high level of cleanliness, safety and mechanical soundness.

viii. The Subrecipient shall maintain equipment in accordance to their agency approved Maintenance Plan kept on file for review by County. County and the FTA shall have the right to monitor maintenance records in order to confirm that proper upkeep has been conducted pursuant to this section.

ix. For Project Component 2, Transit Signal Prioritization, for components installed and maintained within WYDOT owned signal cabinets, a Maintenance Agreement / Memorandum of Agreement (MOA) or equivalent shall be executed and on file prior to any requests for reimbursement. The Maintenance Agreement or equivalent agreement shall conform with County and FTA requirements.

D. Motor Vehicle Safety.

i. **Motor Vehicle Safety Standards**. The motor vehicles will comply with the Motor Vehicle Safety Standards and Pollution requirements as established by the United States Department of Transportation.

ii. **Motor Vehicle Requirements**. When new motor vehicles are purchased, there shall be obtained from each vendor a certification in writing that: "The horsepower of the vehicle is adequate for the speed, range and terrain in which it will be required to operate and also to meet the demands of all auxiliary power equipment."

E. Nondiscrimination On The Basis of Disability - 504 Regulations

i. The Subrecipient shall ensure to County that persons with disabilities and groups representing them have had adequate notice of and opportunity to comment on the present and proposed plans for providing transportation to disabled persons unable to use general public service.

ii. The Subrecipient must certify to County that special efforts are being made to provide transportation to eligible disabled persons. This service must be reasonable in cost, meet a significant fraction for such transportation needs, and be provided within a reasonable time.

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iii. The Subrecipient is to submit a status report to County (updated every three years). The report must include:

a. A description of the service to the disabled, as compared to the general public service.
b. Copies or a summary of the comments received in response to the opportunity to comment.
c. A statement of any plans to significantly modify the services.
d. A statement of the resources devoted to the disabled service.

F. Safety Jurisdiction. FTA requires that all Subrecipients operate their service in a safe manner and not allow any conditions to develop that "create a serious hazard of death or injury."

G. Safety Training Classes. Safety Training Classes are a mandated requirement for complying with the Safety Jurisdiction clause. Driver Safety and Passenger Assistance Training (TSI) or equal approved training, ADA compliance training, and other technical training programs are required on a regular basis. The Wyoming Public Transportation Association (WYTRANS) offers such training. WYTRANS maintains records and files of this program including attendance (names and agencies) and costs and other training information. The Subrecipient shall maintain independent employee training records for their file as well and have these records available for inspection by County. The Subrecipient shall notify County of any employee needed training to keep current with the requirements of this section. If safety violations are found and a Subrecipient fails to correct them, or comply with the training mandate, further financial assistance may be withheld.

H. Emergency Management. All Subrecipients are required to cooperate and coordinate with Emergency Management agencies in their area during natural or man-made disasters. All FTA vehicles shall be used to transport people and/or equipment as directed by the responsible emergency management agency. All Subrecipients shall use their communication equipment to insure timely evacuation of elderly and disabled people in their area.

7. **Special Provisions**

A. **Notice to Subrecipients**.

i. Federal requirements that apply to the Recipient of the Grant (County), including the accompanying Underlying Grant Agreement, and any Amendments thereto, may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Underlying Grant Agreement including any information incorporated by reference and made part of that Underlying Grant Agreement; and

ii. Applicable changes to those federal requirements will apply to each Subrecipient Agreement and parties to any agreements related thereto in any tier.

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B. **Assumption of Risk**. The Subrecipient shall assume the risk of any loss of state or federal funding, either administrative or program dollars, due to the Subrecipient's failure to comply with federal requirements. County shall notify the Subrecipient of any federal determination of noncompliance.

C. **Conflict of Interest**. Per 2 CFR 200.112, the Subrecipient must disclose in writing any potential conflict of interest to County including financial or other personal interests.

D. **Environmental Policy Acts**. The Subrecipient agrees all activities under this Agreement will comply with the Clean Air Act, the Clean Water Act, the National Environmental Policy Act, and other related provisions of federal environmental protection laws, rules or regulations.

E. **Human Trafficking**. As required by 22 U.S.C. § 7104(g) and 2 CFR Part 175, this Agreement may be terminated without penalty if a private entity that receives funds under this Agreement:

   i. Engages in severe forms of trafficking in persons during the period of time that the award is in effect;

   ii. Procures a commercial sex act during the period of time that the award is in effect; or

   iii. Uses forced labor in the performance of the award or subawards under the award.

F. **Kickbacks**. The Subrecipient certifies and warrants that no gratuities, kickbacks, or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Agreement. If the Subrecipient breaches or violates this warranty, County may, at its discretion, terminate this Agreement without liability to County or deduct from the agreed upon price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee. The Subrecipient shall comply with the Copeland Anti-Kickback Act (18 U.S.C. § 874) as supplemented in the Department of Labor Regulations (29 CFR, Part 3). This Act provides that the Subrecipient is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public works to give up any part of the compensation to which he or she is otherwise entitled.

G. **Limitations on Lobbying Activities**. By signing this Agreement, the Subrecipient certifies and agrees that, in accordance with P.L. 101-121, payments made from a federal grant shall not be utilized by the Subrecipient in connection with lobbying member(s) of Congress, or any federal person or entity in connection with the award of a federal grant, contract, cooperative agreement, or loan. The Subrecipient may also be required to submit an additional certification statement and disclosure form acceptable to County before commencement of the work.

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H. **Mandatory Disclosures**. Per 2 CFR 200.113, the Subrecipient must disclose, in a timely manner, in writing to County all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting this award. Failure to make required disclosures can result in remedies for noncompliance including suspension or debarment.

I. **Nondiscrimination**. The Subrecipient shall comply with the Civil Rights Act of 1964, the Wyoming Fair Employment Practices Act (Wyo. Stat. § 27-9-105, et seq.), the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, et seq., and the Age Discrimination Act of 1975 and any properly promulgated rules and regulations thereto and shall not discriminate against any individual on the grounds of age, sex, color, race, religion, national origin, or disability in connection with the performance under this Agreement.

J. **No Finder's Fees**. No finder's fee, employment agency fee, or other such fee related to the procurement of this Agreement, shall be paid by either party.

K. **Publicity**. Any publicity given to the projects, programs, or services provided herein, including, but not limited to, notices, information, pamphlets, press releases, research, reports, signs, and similar public notices in whatever form, prepared by or for the Subrecipient and related to the services and work to be performed under this Agreement, shall include a reference to the TMCI Project and any additional information required by the County due to federal requirements.

L. S**uspension and Debarment**. By signing this Agreement, Subrecipient certifies that neither it nor its principals/agents are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction or from receiving federal financial or nonfinancial assistance, nor are any of the participants involved in the execution of this Agreement suspended, debarred, or voluntarily excluded by any federal department or agency in accordance with Executive Order 12549 (Debarment and Suspension), 44 CFR Part 17, or 2 CFR Part 180, or are on the debarred, or otherwise ineligible, vendors lists maintained by the federal government. Further, Subrecipient agrees to notify County by certified mail should it or any of its principals/agents become ineligible for payment, debarred, suspended, or voluntarily excluded from receiving federal funds during the term of this Agreement.

M. **Administration of Federal Funds**. The Subrecipient agrees its use of the funds awarded herein is subject to the Uniform Administrative Requirements of 2 CFR Part 200, et seq.; any additional requirements set forth by the federal funding agency; all applicable regulations published in the Code of Federal Regulations; and other program guidance as provided to it by County.

N. **Copyright License and Patent Rights**. The Subrecipient acknowledges that federal grantor and County reserve a royalty-free, nonexclusive, unlimited, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal and county government purposes: (1) the copyright in any work developed under this Agreement; and (2) any rights of copyright to which the Subrecipient purchases ownership using funds

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awarded under this Agreement. The Subrecipient must consult with County regarding any patent rights that arise from, or are purchased with, funds awarded under this Agreement.

O. **Federal Audit Requirements**. The Subrecipient agrees that if it expends an aggregate amount of seven hundred fifty thousand dollars ($750,000.00) or more in federal funds during its fiscal year, it must undergo an organization-wide financial and compliance single audit. The Subrecipient agrees to comply with the audit requirements of the U.S. General Accounting Office Government Auditing Standards and Audit Requirements of 2 CFR Part 200, Subpart F. If findings are made which cover any part of this Agreement, the Subrecipient shall provide one (1) copy of the audit report to County and require the release of the audit report by its auditor be held until adjusting entries are disclosed and made to County's records.

P. **Non-Supplanting Certification**. The Subrecipient hereby affirms that federal grant funds shall be used to supplement existing funds and shall not replace (supplant) funds that have been appropriated for the same purpose. The Subrecipient should be able to document that any reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds under this Agreement.

Q. **Program Income**. The Subrecipient shall not be eligible for any funds disbursement not attributable to a reimbursement request and therefore will have no income generating mechanisms.

8. **General Provisions**

A. **Amendments**. Any changes, modifications, revisions, or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed by all parties to this Agreement.

B. **Applicable Law, Rules of Construction, and Venue**. The construction, interpretation, and enforcement of this Agreement shall be governed by the laws of the State of Wyoming, without regard to conflicts of law principles. The terms "hereof," "hereunder," "herein," and words of similar import, are intended to refer to this Agreement as a whole and not to any particular provision or part. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the parties. The venue shall be the Ninth Judicial District, Teton County, Wyoming.

C. **Assignment Prohibited and Agreement Shall Not be Used as Collateral**. Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set out in this Agreement without the prior written consent of the other party. The Subrecipient shall not use this Agreement, or any portion thereof, for collateral for any financial obligation without the prior written permission of County.

D. **Audit and Access to Records**. County and its representatives shall have access to any books, documents, papers, electronic data, and records of the Subrecipient which are pertinent to this Agreement. The Subrecipient shall immediately, upon receiving written

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instruction from County provide to any independent auditor accountant all books, documents, papers, electronic data, and records of the Subrecipient which are pertinent to this Agreement. The Subrecipient shall cooperate fully with any such independent auditor or accountant during the entire course of any audit authorized by County.

E. **Availability of Funds**. Each payment obligation of County is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation, and which may be limited for any reason including, but not limited to, congressional, legislative, gubernatorial, or administrative action. If funds are not allocated and available for continued performance of the Agreement, the Agreement may be terminated by County at the end of the period for which the funds are available. County shall notify the Subrecipient at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to County in the event this provision is exercised, and County shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section.

F. **Award of Related Agreements**. County may award supplemental or successor Agreements for work related to this Agreement or may award Agreements to other Subrecipients for work related to this Agreement. The Subrecipient shall cooperate fully with other Subrecipients and County in all such cases.

G. C**ompliance with Laws**. The Subrecipient shall keep informed of and comply with all applicable federal, state, and local laws and regulations, and all federal grant requirements and executive orders in the performance of this Agreement.

H. **Confidentiality of Information**. Except when disclosure is required by the Wyoming Public Records Act or court order, all documents, data compilations, reports, computer programs, photographs, data, and other work provided to or produced by the Subrecipient in the performance of this Agreement shall be kept confidential by the Subrecipient unless written permission is granted by County for its release. If and when Subrecipient receives a request for information subject to this Agreement, Subrecipient shall notify County within ten (10) days of such request and shall not release such information to a third party unless directed to do so by County.

I. **Counterparts.** This Agreement may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Agreement. Delivery by the Subrecipient of an originally signed counterpart of this Agreement by email in PDF format shall be followed up immediately by delivery of the originally signed counterpart to County.

J. **Ethics**. Subrecipient shall keep informed of and comply with the Wyoming Ethics and Disclosure Act (Wyo. Stat. § 9-13-101, et seq.) and any and all ethical standards governing Subrecipient's profession.

K. **Entirety of Agreement**. This Agreement, consisting of 21 pages; Attachment A - Compliance Certification, consisting of five (5) pages for each bus type procurement;

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Attachment B - Continuing Control Acknowledgement, consisting of one (1) page; Attachment C - Federally Required Clauses, consisting of seven (7) pages represent the entire and integrated Agreement between the parties and supersede all prior negotiations, representations, and agreements, whether written or oral. In the event of a conflict or inconsistency between the language of this Agreement and the language of any attachment or document incorporated by reference, the language of this Agreement shall control.

L. **Extensions**. Nothing in this Agreement shall be interpreted or deemed to create an expectation that this Agreement will be extended beyond the term described herein. Any extension of this Agreement shall be initiated by County and shall be accomplished through a written amendment between the parties entered into before the expiration of the original Agreement or any valid amendment thereto, and shall be effective only after it is reduced to writing and executed by all parties to the Agreement.

M. **Force Majeure**. Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays.

N. **Indemnification**. Each party to this Agreement shall assume the risk of any liability arising from its own conduct. Neither party agrees to insure, defend, or indemnify the other.

O. **Independent Contractor**. The Subrecipient shall function as an independent contractor for the purposes of this Agreement and shall not be considered an employee of County for any purpose. Consistent with the express terms of this Agreement, the Subrecipient shall be free from control or direction over the details of the performance of services under this Agreement. The Subrecipient shall assume sole responsibility for any debts or liabilities that may be incurred by the Subrecipient in fulfilling the terms of this Agreement and shall be solely responsible for the payment of all federal, state, and local taxes which may accrue because of this Agreement. Nothing in this Agreement shall be interpreted as authorizing the Subrecipient or its agents or employees to act as an agent or representative for or on behalf of County or to incur any obligation of any kind on behalf of County. The Subrecipient agrees that no health or hospitalization benefits, workers' compensation, unemployment insurance, or similar benefits available to County employees will inure to the benefit of the Subrecipient or the Subrecipient's agents or employees as a result of this Agreement.

P. **Insurance Requirements**. Subrecipient is protected by the Wyoming Governmental Claims Act, Wyo. Stat. § 1-39-101, et seq., and certifies that it is a member of the Wyoming Association of Risk Management (WARM) pool or the Local Government Liability Pool (LGLP), Wyo. Stat. § 1-42-201, et seq., and shall provide a letter verifying its participation in the WARM or LGLP to County.

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Q. **Notices**. All notices arising out of, or from, the provisions of this Agreement shall be via email and if requested, will followed by original in writing either by regular mail or delivery in person at the addresses provided under Section 1 (Parties) of this Agreement.

R. **Ownership and Return of Documents and Information**. County is the official custodian and owns all documents, data compilations, reports, computer programs, photographs, data, and other work provided to or produced by the Subrecipient in the performance of this Agreement. Upon termination of services, for any reason, Subrecipient agrees to return all such original and derivative information and documents to County in a useable format. In the case of electronic transmission, such transmission shall be secured. The return of information by any other means shall be by a parcel service that utilizes tracking numbers.

S. **Patent or Copyright Protection**. The Subrecipient recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license, or other similar restrictions, and warrants that no work performed by the Subrecipient will violate any such restriction. The Subrecipient shall defend and indemnify County for any infringement or alleged infringement of such patent, trademark, copyright, license, or other restrictions.

T. **Prior Approval**. This Agreement shall not be binding upon either party, no services shall be performed, and County shall not draw warrants (checks/vouchers) for payment, until this Agreement has been fully executed and approved by the Teton County Board of County Commissioners.

U. **Severability**. Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of the Agreement shall continue in full force and effect, and the parties may renegotiate the terms affected by the severance.

V. **Sovereign Immunity and Limitations**. Pursuant to Wyo. Stat. § 1-39-104(a), County expressly reserves sovereign immunity by entering into this Agreement and the Subrecipient expressly reserves governmental immunity. Each of them specifically retains all immunities and defenses available to them as sovereigns or governmental entities pursuant to Wyo. Stat. §1-39-101, et seq., and all other applicable law. The parties acknowledge that the County has sovereign immunity and only the Wyoming Legislature has the power to waive sovereign immunity.

W. **Taxes**. The Subrecipient shall pay all taxes and other such amounts required by federal, state, and local law, including, but not limited to, federal and social security taxes, workers' compensation, unemployment insurance, and sales taxes.

X. **Termination of Agreement**. This Agreement may be terminated, without cause, by County upon thirty (30) days written notice. This Agreement may be terminated by County immediately for cause if the Subrecipient fails to perform in accordance with the terms of this Agreement.

Y. **Third-Party Beneficiary Rights**. The parties do not intend to create in any other individual or entity the status of third-party beneficiary, and this Agreement shall not be construed so as

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to create such status. The rights, duties, and obligations contained in this Agreement shall operate only between the parties to this Agreement and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement.

Z. **Time is of the Essence**. Time is of the essence in all provisions of this Agreement.

AA. **Titles Not Controlling**. Titles of sections and subsections are for reference only and shall not be used to construe the language in this Agreement.

BB. **Waiver**. The waiver of any breach of any term or condition in this Agreement shall not be deemed a waiver of any prior or subsequent breach. Failure to object to a breach shall not constitute a waiver.

9. **Signatures.** The parties to this Agreement, either personally or through their duly authorized representatives, have executed this Agreement on the dates set out below and certify that they have read, understood, and agreed to the terms and conditions of this Agreement.

The Effective Date of this Agreement is the date of the signature last affixed to this page.

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SIGNATURES APPEAR ON NEXT PAGE

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TETON COUNTY, WYOMING:

_____ _____

Natalia D. Macker, Chairwoman Date
Teton County Board of County Commissioners

ATTEST:

_____ _____

Maureen E. Murphy Date
Teton County Clerk

TOWN OF JACKSON/SOUTHERN TETON AREA RAPID TRANSIT (START):

_____ _____

Name:

Date

Title:

ATTEST:

_____ _____

Name: Date

Title:

Attachments:
Attachment A: REQUIRED FEDERAL CERTIFICATIONS
(Attachment A-1 for Electric Busses; Attachment A-2 for Commuter Busses)
Attachment B: CONTINUING CONTROL ACKNOWLEDGEMENT
Attachment C: MANDATORY FEDERAL CLAUSES

DRAFT 13MAY2022

PO Box 1687
Jackson WY 83001
307-733-4521

May 10, 2020

The Honorable Elaine L. Chao
Secretary of Transportation
1200 New Jersey Ave, SE
Washington DC 20590

Dear Secretary Chao:

Subject: BUILD Grant Support Letter - Teton Mobility Corridor Improvements Project

Dear Secretary Chao,

The Southern Teton Area Rapid Transit (START) Board of Directors is pleased to write in support of the Teton Mobility Corridor Improvements BUILD grant application, submitted by lead applicant Teton County Wyoming.

As an organization devoted to improving mobility for our rural region's workforce commuters and visitors, we are pleased to be a partner on this proposal to provide multimodal transportation improvements that will better connect our growing rural communities with enhanced transit, safer highways, and much needed active transportation facilities. This plan has strong public support and responds to top priority transportation needs identified in our adopted community land use and transportation plans:

- Meet future transportation demand through the use of alternative modes
- Create a safe, efficient, interconnected, multi-modal transportation network
- Coordinate land use and transportation planning

The Teton Mobility Corridor Improvement project will enhance mobility and commuter options for our workforce to better connect housing to jobs, enhance safety by reducing trips over Teton Pass, improve economic competitiveness with improved connections to employment centers, and move the region toward greater environmental sustainability with a reduction in single occupant vehicle trips and a shift to increased transit, biking, and walking trips. By providing these enhanced transportation connections and services, we will help enhance the quality of life for our citizens.

START is committed to the success of this project and to being a full partner in the series of investments described in the grant application.

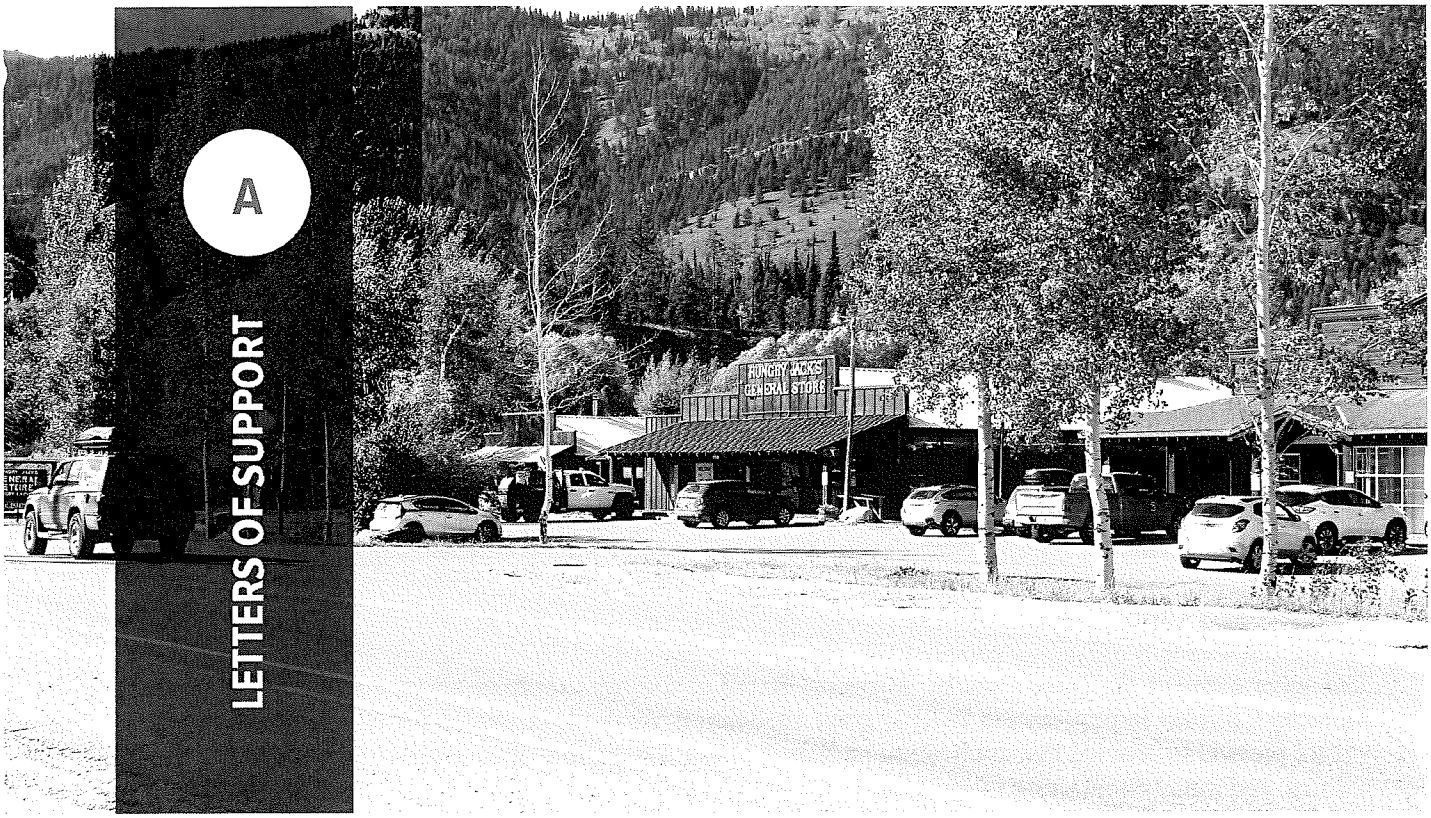
The project components will implement a series of multimodal improvements along the state highway corridor Idaho-33/Wyoming 22 between Driggs Idaho and Jackson Wyoming. It will connect residents and visitors to many of the region's economic generators, including Jackson Hole Mountain Resort, Town of Jackson, Grand Targhee Resort, City of Driggs, and City of Victor. The project will include the construction of two transit centers and two park-and-ride facilities; completion of 8 miles of missing links in the active transportation network; optimization of signals for transit vehicles; purchase of six regional commuter buses for the transit fleet; and development of state highway upgrades to improve safety.

In closing, thank you for your consideration of the Teton Mobility Corridor Improvements Project request for a 2020 BUILD grant.

Sincerely,

Susan Mick
Chair, START Board of Directors

Darren Brugmann
Director, START



Appendix A: Letters of Support

TETON COUNTY
WYOMING

BOARD OF COMMISSIONERS
Natalia D. Macker, Chair
Greg Epstein, V-Chair
Mark Barron
Mark Newcomb
Luther Propst

May 5, 2020

The Honorable Elaine L. Chao
Secretary of Transportation
1200 New Jersey Ave, SE
Washington DC 20590

Subject: BUILD Grant Support Letter - Teton Mobility Corridor Improvements Project

Dear Secretary Chao:

This letter conveys the Teton County, Wyoming Board of County Commissioners' support of the Teton Mobility Corridor Improvements BUILD grant application. As the lead agency for this grant submittal, we are pleased to provide this application on behalf of our five partner agencies, two private sector entities, and many community supporters.

The project will dramatically increase connectivity between the region's economic generators, including Grand Targhee Resort, City of Driggs, Idaho, City of Victor Idaho, Wilson, Wyoming, Jackson Hole Mountain Resort, and Town of Jackson, Wyoming. Its components will implement a series of multimodal improvements along the state highway corridor Idaho-33 and Wyoming-22 between Driggs, Idaho and Jackson, Wyoming. These include: the construction of two transit centers and three park-and-ride facilities; completion of 8.5 miles of missing links in the active transportation network; optimization of signals for transit vehicles; purchase of six regional commuter buses for the transit fleet; and, development of state highway upgrades to improve safety.

The project will improve roadways, extend active transportation pathways, enhance transit, and construct inter-connected transportation hubs, helping propel the economy out of the COVID-19 crisis and grow into the future. The improvements will bolster workforce mobility and increase commuter options for locals as well as visitors. They will connect existing housing areas to jobs and enhance safety by reducing trips over Teton Pass. Improved connections to employment centers will increase the region's economic competitiveness. Reducing the share of SOV trips and increasing the shares of bus, biking and walking trips will enhance the quality of life for our citizens and visitors.

Our rural, tourist-based economy is seasonal. Winter visitors primarily recreate at Jackson Hole Mountain and Grand Targhee Resorts. Summer visitors primarily recreate in Grand Teton and Yellowstone National Parks. Advances in our region's transportation system will allow for a more sustainable, year-round economy. The combination of complimentary multimodal solutions represented in this grant application will implement the community's vision and goals as expressed in locally-adopted land use and transportation plans, including a reduction in carbon emissions and wildlife-vehicle collisions.

TETON COUNTY
WYOMING

BOARD OF COMMISSIONERS
Natalia D. Macker, Chair
Greg Epstein, V-Chair
Mark Barron
Mark Newcomb
Luther Propst

The heart of this network of improvements is the new Stilson Park Transit Center and Park and Ride facility, a public/private partnership between the Jackson Hole Mountain Resort and local governments. This facility will enhance commuter connections and provide a key transit link to our region's mountain resorts, towns, and world-renowned public lands.

This project implements improvements that many saw as vital as far back as 1994 and that the community fully embraced early in this decade as visionary transportation plans were adopted by Teton County, Wyoming and Teton County, Idaho. Both fully support this application. Teton County, Wyoming is prepared to make the local funding match commitments as described in the grant application and to carry out all responsibilities of being the lead applicant.

We hope that you will consider this multi-state, multi-jurisdictional, multimodal request for a 2020 BUILD grant.

If you have any questions regarding this application, please do not hesitate to contact Director of Public Works Heather Overholser at 307-732-8580. We look forward to working with you and your staff in helping our region to recover and thrive into the future.

Respectfully yours,

Natalia D. Macker

Natalia D. Macker, Chairwoman
Teton County Board of County Commissioners

STATE OF WYOMING COUNTY CLERK TETON COUNTY

Attest:

Shelley Laurkanis, Deputy County Clerk

Sherry L. Daigle, County Clerk
Teton County

for

REQUIRED FEDERAL CERTIFICATIONS & REQUIREMENTS

Pre-Award Certifications:

FMVSS Compliance, Buy America Compliance, & Purchasers Requirements

PRE-AWARD FMVSS COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart D, the Recipient certifies that it received, at the pre-award stage, a copy of _____'s (the manufacturer) self-certification information stating that the vehicle(s), **Project Component 4: Two Southern Teton Area Rapid Transit (START) electric buses** will comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, Part 571.

PRE-AWARD BUY AMERICA COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart B, the Recipient is satisfied that the vehicle(s) to be purchased, **Project Component 4: Two Southern Teton Area Rapid Transit (START) electric buses** from _____ (the manufacturer), meet the requirements of Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended. The Recipient or its appointed analyst:

_____

(the analyst – not the manufacturer or its agent), has reviewed documentation provided by the manufacturer, which lists (1) the proposed component and subcomponent parts of the vehicle(s) identified by manufacturer, country of origin, and cost; and (2) the proposed location of the final assembly point for the vehicle(s), including a description of the activities that will take place at the final assembly point and the cost of final assembly.

PRE-AWARD PURCHASER'S REQUIREMENTS CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart B, the Recipient certifies that the vehicle(s) to be purchased, **Project Component 4: Two Southern Teton Area Rapid Transit (START) electric buses** from _____ (the manufacturer), are the same product described in the recipient's solicitation specification and that the proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the specifications.

Date: _____ Printed Name: _____

Signature: _____ Title: _____

Post-Delivery Certifications:

Purchaser's Requirements, FMVSS Compliance, Visual Inspection & Road Test Sheets

POST-DELIVERY PURCHASER'S REQUIREMENTS CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart C, after visually inspecting and road testing the contract vehicle(s), the Recipient certifies that the vehicle(s), **Project Component 4: Two Southern Teton Area Rapid Transit (START) electric buses** from

_____(the manufacturer), meet the contract specifications.

POST-DELIVERY FMVSS COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart D, the Recipient certifies that it received, at the post-delivery stage, a copy of _____'s (the manufacturer) self-certification information stating that the vehicle(s), **Project Component 4: Two Southern Teton Area Rapid Transit (START) electric buses** comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in Title 49 Code of Federal Regulations, Part 571.

Date: _____ Printed Name: _____

Signature: _____ Title: _____

VISUAL INSPECTION SHEET

Guide for Inspection:

The following items should be inspected

on every vehicle of each order.

Vehicle Manufacturer: _____

Vehicle Number: _____

Test Location & Date: _____

Item	Requirement	Inspection Instruction	Result	Inspector/ Date	Remarks/ Notes
Curb Weight	Maximum curb Weight of ___ lb.	Measure on certified scale	Weight: _____		
FMVSS Stickers	Affixed to vehicle.	Locate sticker	Pass / Fail		
Finish & Color	Smooth body surfaces & paint	Visually inspect all surfaces for flaws	Pass / Fail		
Interior Panel Fastening	Absence of rough edges or surfaces	Visually inspect for proper installation	Pass / Fail		
Towing Devices	Provision of towing eyes (front/rear)	Verify presence of towing eyes	Pass / Fail		
Door Control	Opening Time of _____ sec.	Verify door opening time frame	Pass / Fail		
Interior Lighting	Lighting operable without engine	Switch on all interior lights	Pass / Fail		
Exterior Lighting	All vehicle lights operable	Switch on and verify lamps are on	Pass / Fail		
Fuel Tank	Fill rate and filler location	Inspect filler for easy access and check fill rate	Pass / Fail		

Item	Requirement	Inspection Instruction	Result	Inspector/ Date	Remarks/ Notes
Chassis	Welds, axles, suspension, steering, wheels, and brakes	Inspect for leaks, and interference. Check fluid levels, welds, undercoating, air lines, brake slack, and lug nuts.	Pass / Fail		
Electrical	Wiring and junction boxes	Inspect for loose or stretched wires	Pass / Fail		
Batteries	Secured and polarized wiring access for jump start	Inspect compartment and jumper cable access	Pass / Fail		
HVAC	Capacity and Performance	Operate AC, check compressor, condensor, flow, and temperature	Pass / Fail		
Wheelchair Access	Clear lift or ramp access, and securement area	Operate lift or ramp, inspect operation, measure areas	Pass / Fail		
Power Plant	Mounting and arrangement	Check for loose lines, leaks, and noises. Check fluid levels, belt alignment, and cap fit.	Pass / Fail		

Printed Name of Inspector: _____

Signature of Inspector: _____

Note the name of the Road Tester here if different from the Inspector and/or Comments:

_____

_____

_____

_____

Road Test Sheet

Guide for Inspection:
The following items should be inspected on every vehicle of each order.

Vehicle Manufacturer: _____

Vehicle Number: _____

Test Location & Date: _____

Item	Requirement	Inspection Instruction	Result	Inspector/Date	Remarks/Notes
Engine	N/A	Record low idle, fast idle, and high idle speeds	Low_____ Fast_____ High_____		
Service Brakes	Stopping Distance	Verify function and indicator, check for pulling to either side	Pass / Fail		
Parking Brake	N/A	Verify indicator, and no movement	Pass / Fail		
Turning Effort	Steering wheel torque	Check effort with coach stopped	Pass / Fail		
Turning Radius	Not to exceed _____ at corner of body	Verify turning radius in both directions	Pass / Fail		
Acceleration	_____ rate from 0 to _____ mph	Verify acceleration on smooth road	Pass / Fail		
Resonance	Absence of audible and/or visible vibrations	Operate coach at various speeds, check for vibrations and rattles	Pass / Fail		
Windshield Wipers	Evenly deposited wash fluid	Operate coach at safe speed over 40 mph, check coverage, parking position, and wiper frequency	Pass / Fail		
Power Plant	N/A	Check for leaks under coach and in engine compartment, check for abnormal noises	Pass / Fail		
HVAC	Interior temperature	Operate system, check internal and ambient temp.	Int. _____ Amb. _____		
Door Control	Accelerator and brake interlocks	At speeds less than 10 mph, verify accelerator and brake interlocks with door open	Pass / Fail		
General	N/A	During testing, observe any abnormalities in ride and handling of coach	Pass / Fail		

REQUIRED FEDERAL CERTIFICATIONS & REQUIREMENTS

Pre-Award Certifications:

FMVSS Compliance, Buy America Compliance, & Purchasers Requirements

PRE-AWARD FMVSS COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart D, the Recipient certifies that it received, at the pre-award stage, a copy of _____'s (the manufacturer) self-certification information stating that the vehicle(s), **Project Component 3: Four Southern Teton Area Rapid Transit (START) commuter coach/buses** will comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, Part 571.

PRE-AWARD BUY AMERICA COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart B, the Recipient is satisfied that the vehicle(s) to be purchased, **Project Component 3: Four Southern Teton Area Rapid Transit (START) commuter coach/buses** from _____ (the manufacturer), meet the requirements of Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended. The Recipient or its appointed analyst:

_____

(the analyst – not the manufacturer or its agent), has reviewed documentation provided by the manufacturer, which lists (1) the proposed component and subcomponent parts of the vehicle(s) identified by manufacturer, country of origin, and cost; and (2) the proposed location of the final assembly point for the vehicle(s), including a description of the activities that will take place at the final assembly point and the cost of final assembly.

PRE-AWARD PURCHASER'S REQUIREMENTS CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart B, the Recipient certifies that the vehicle(s) to be purchased, **Project Component 3: Four Southern Teton Area Rapid Transit (START) commuter coach/buses** from _____ (the manufacturer), are the same product described in the recipient's solicitation specification and that the proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the specifications.

Date: _____ Printed Name: _____

Signature: _____ Title: _____

Post-Delivery Certifications:

Purchaser's Requirements, FMVSS Compliance, Visual Inspection & Road Test Sheets

POST-DELIVERY PURCHASER'S REQUIREMENTS CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart C, after visually inspecting and road testing the contract vehicle(s), the Recipient certifies that the vehicle(s), **Project Component 3: Four Southern Teton Area Rapid Transit (START) commuter coach/buses** from

_____(the manufacturer), meet the contract specifications.

POST-DELIVERY FMVSS COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart D, the Recipient certifies that it received, at the post-delivery stage, a copy of _____'s (the manufacturer) self-certification information stating that the vehicle(s), **Project Component 3: Four Southern Teton Area Rapid Transit (START) commuter coach/buses** comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in Title 49 Code of Federal Regulations, Part 571.

Date: _____ Printed Name: _____

Signature: _____ Title: _____

VISUAL INSPECTION SHEET

Guide for Inspection:

The following items should be inspected

on every vehicle of each order.

Vehicle Manufacturer: _____

Vehicle Number: _____

Test Location & Date: _____

Item	Requirement	Inspection Instruction	Result	Inspector/ Date	Remarks/ Notes
Curb Weight	Maximum curb Weight of ___ lb.	Measure on certified scale	Weight: _____		
FMVSS Stickers	Affixed to vehicle.	Locate sticker	Pass / Fail		
Finish & Color	Smooth body surfaces & paint	Visually inspect all surfaces for flaws	Pass / Fail		
Interior Panel Fastening	Absence of rough edges or surfaces	Visually inspect for proper installation	Pass / Fail		
Towing Devices	Provision of towing eyes (front/rear)	Verify presence of towing eyes	Pass / Fail		
Door Control	Opening Time of _____ sec.	Verify door opening time frame	Pass / Fail		
Interior Lighting	Lighting operable without engine	Switch on all interior lights	Pass / Fail		
Exterior Lighting	All vehicle lights operable	Switch on and verify lamps are on	Pass / Fail		
Fuel Tank	Fill rate and filler location	Inspect filler for easy access and check fill rate	Pass / Fail		

Item	Requirement	Inspection Instruction	Result	Inspector/ Date	Remarks/ Notes
Chassis	Welds, axles, suspension, steering, wheels, and brakes	Inspect for leaks, and interference. Check fluid levels, welds, undercoating, air lines, brake slack, and lug nuts.	Pass / Fail		
Electrical	Wiring and junction boxes	Inspect for loose or stretched wires	Pass / Fail		
Batteries	Secured and polarized wiring access for jump start	Inspect compartment and jumper cable access	Pass / Fail		
HVAC	Capacity and Performance	Operate AC, check compressor, condensor, flow, and temperature	Pass / Fail		
Wheelchair Access	Clear lift or ramp access, and securement area	Operate lift or ramp, inspect operation, measure areas	Pass / Fail		
Power Plant	Mounting and arrangement	Check for loose lines, leaks, and noises. Check fluid levels, belt alignment, and cap fit.	Pass / Fail		

Printed Name of Inspector: _____

Signature of Inspector: _____

Note the name of the Road Tester here if different from the Inspector and/or Comments:

_____

_____

_____

_____

Road Test Sheet

Guide for Inspection:
The following items should be inspected on every vehicle of each order.

Vehicle Manufacturer: _____

Vehicle Number: _____

Test Location & Date: _____

Item	Requirement	Inspection Instruction	Result	Inspector/Date	Remarks/Notes
Engine	N/A	Record low idle, fast idle, and high idle speeds	Low_____ Fast_____ High_____		
Service Brakes	Stopping Distance	Verify function and indicator, check for pulling to either side	Pass / Fail		
Parking Brake	N/A	Verify indicator, and no movement	Pass / Fail		
Turning Effort	Steering wheel torque	Check effort with coach stopped	Pass / Fail		
Turning Radius	Not to exceed _____ at corner of body	Verify turning radius in both directions	Pass / Fail		
Acceleration	_____ rate from 0 to _____ mph	Verify acceleration on smooth road	Pass / Fail		
Resonance	Absence of audible and/or visible vibrations	Operate coach at various speeds, check for vibrations and rattles	Pass / Fail		
Windshield Wipers	Evenly deposited wash fluid	Operate coach at safe speed over 40 mph, check coverage, parking position, and wiper frequency	Pass / Fail		
Power Plant	N/A	Check for leaks under coach and in engine compartment, check for abnormal noises	Pass / Fail		
HVAC	Interior temperature	Operate system, check internal and ambient temp.	Int. _____ Amb. _____		
Door Control	Accelerator and brake interlocks	At speeds less than 10 mph, verify accelerator and brake interlocks with door open	Pass / Fail		
General	N/A	During testing, observe any abnormalities in ride and handling of coach	Pass / Fail		

CONTINUING CONTROL ACKNOWLEDGEMENT

Southern Teton Area Rapid Transit (START) is purchasing vehicle(s) for use in its Transportation Program with a grant from Teton County, Wyoming using Federal Transit Administration (FTA) pass-through funding. As a condition of this grant agreement with Teton County, Wyoming, Southern Teton Area Rapid Transit (START) understands that the vehicle(s) must be used in the manner described in the grant agreement and that the vehicle(s) have a minimum useful life. Additional details for the vehicle use, disposal and useful life can be found in the *Use of Project Equipment* section of the grant agreement. Signing below indicates that you acknowledge and understand these requirements and will present this form to your respective County Clerk during vehicle licensing.

By: _____
Signature

_____
Printed Name and Title

Southern Teton Area Rapid Transit (START)

_____
Date

Vehicles purchased all or in part with federal and/or state funds through Teton County, Wyoming and the FTA cannot be used as collateral or traded without the express permission in writing from Teton County, Wyoming. During the useful life of the vehicle(s), Southern Teton Area Rapid Transit (START) and Teton County, Wyoming must certify to the FTA that the vehicle is being maintained and used in accordance with the grant agreement. Southern Teton Area Rapid Transit (START) shall present a copy of this form to the Teton County Clerk along with the title paperwork when licensing the vehicle to ensure the appropriate steps are taken to ensure the continuing control of federally funded assets.

TO: TETON COUNTY CLERK

To be in compliance with the FTA and Teton County, Wyoming for grant funding, the statement below should be conveyed on the face of the vehicle title. It is START's responsibility to advise title issuing agencies a vehicle was purchased with grant funding.

Please place the following statement in a conspicuous place on the face of the title for this vehicle(s):

"Teton County, Wyoming Grant – Restricted"

These Federal clauses must be attached to any contract, bid, proposal, etc., you, as a third-party contractor to which you are a part:

FLY AMERICA REQUIREMENTS: 49 U.S.C. § 40118 – 41 CFR Parts 301-10

Applicability: The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., when the FTA will participate in the costs of such air transportation.

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. Flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate or compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

BUY AMERICA REQUIREMENTS: 49 U.S.C. 5323(j) – 49 CFR Part 661

Applicability: The Buy America requirements apply to the following types of contracts: Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than $100,000).

The Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

CARGO PREFERENCE REQUIREMENTS: 46 U.S.C. 1241 – 46 CFR Parts 381

Applicability: Cargo Preference requirements apply to all contracts involving equipment, materials, or commodities which may be transported by ocean vessels.

Cargo Preference – Use of United States-Flag Vessels: The Contractor agrees to:

1) to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
2) to furnish within 20 working days following the date of loading for shipments originating within the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading); and
3) to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

ENERGY CONSERVATION REQUIREMENTS: 42 U.S.C. 6321 et seq. – 49 CFR Part 18

Applicability: Energy conservation requirements are applicable to all contracts.

The Contractor 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.

CLEAN WATER REQUIREMENTS: 33 U.S.C. 1251

Applicability: Clean water requirements apply to each contract and subcontract which exceeds $100,000.

1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
2) The Contractor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

BUS TESTING: 49 U.S.C. 5323(c) – 49 CFR Part 665

Applicability: The Bus Testing requirements pertain only to the acquisition of Rolling Stock/Turnkey.

The Contractor [Manufacturer] agrees to comply with 49 U.S.C. § 5323(c) and FTA implementing regulation at 49 CFR Part 665 and shall perform the following:

1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient at a point in the procurement process specified by the recipient which will be prior to the recipient's final acceptance of the first vehicle.
2) A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public.
3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to recipient's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.
4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

LOBBYING: 49 U.S.C. 1352 – 49 CFR Part 19 – 49 CFR Part 20

Applicability: The Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] – Contractors who apply or bid for an award of $100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

ACCESS TO RECORDS: 49 U.S.C. 5325 – 18 CFR 18.36(i) – 49 CFR 633.17

Applicability: Reference Chart "Requirements for Access to Records and Reports by Type of Contracts".

Access to Records. The following access to records requirements apply to this Contract:

1) Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2) Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at $100,000.
3) Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, an hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4) Where any Purchaser, which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of

Transportation and the Comptroller General or any authorized officer of employee of any of them for the purposes of conducting an audit and inspection.

5) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6) The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference of 49 CFR 18.39(i)(11).

FEDERAL CHANGES: 49 CFR Part 18

Applicability: Federal Changes requirement applies to all contracts.

Contractor 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 Agreement (Form FTA MA (2) dated October, 1995) between purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

CLEAN AIR: 42 U.S.C. 7401 et seq – 40 CFR 15.61 – 49 CFR Part 18

Applicability: Clean Air requirements apply to all contracts exceeding $100,000, including indefinite quantities where the amount is expected to exceed $100,000 in any year.

1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
2) The Contractor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT: 40 U.S.C. §§ 327-333 (1959) -- 29 C.F.R. § 5 (1995) – 29 C.F.R. § 1926 (1995)

Applicability: Construction Contracts in excess of $100,000.

(These clauses are specifically mandated under DOL regulation 29 C.F.R. § 5.5 and when preparing a construction contract in excess of $2,000 these clauses should be used in conjunction with the Davis-Bacon Act clauses. For non-construction contracts, this is the only section required along with the payroll section.)

1) **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clauses set forth in paragraph (1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3) **Withholding for unpaid wages the liquidated damages.** The Recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

4) **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier contracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

Section 102 non-construction contracts should also have the following provision:

5) **Section 107 (OSHA)**

i) The Contractor agrees to comply with Section 107 of the Contract Work House and Safety Standards Act, 40 U.S.C. section 333, and applicable DOL regulations, "Safety and Health Regulations for Construction" 29 C.F.R. Part 1926. Among other things, the Contractor agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions.

ii) **Subcontracts.** The Contractor also agrees to include the requirements of this section in each subcontract. The term "subcontract" under this section is considered to refer to a person who agrees to perform any part of the labor or material requirements of a contract for construction, alteration or repair. A person who undertakes to perform a portion of a contract involving the furnishing of supplies or materials will be considered a "subcontractor" under this section if the work in question involves the performance of construction work and is to be performed:

(1) directly on or near the construction site, or

(2) by the employer for the specific project on a customized basis. Thus, a supplier of materials which will become an integral part of the construction is a "subcontractor" is the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the work involved may be said to be construction activity. If the goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a "subcontractor." The requirements of this section do not apply to contracts or subcontracts for the purchase of supplies or materials or articles normally available on the open market.

NO OBLIGATION TO THIRD PARTIES:

Applicability: Applicable to all contracts.

No Obligation by the Federal Government.

1) The Purchaser and Contractor 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 the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
2) The Contractor 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.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS: 31 U.S.C. 3801 et seq. – 49 CFR Part 31 – 18 U.S.C. 1001 – 49 U.S.C. 5307

Applicability: Applicable to all contracts.

1) The Contractor 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 Contractor 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 Contractor 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 Contractor to the extent the Federal Government deems appropriate.
2) The Contractor 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 Contractor, to the extent the Federal Government deems appropriate.
3) The Contractor 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.

TERMINATION: 49 U.S.C. Part 18 – FTA Circular 4220.1F

Applicability: All Contracts (with the exception of contracts with nonprofit organizations and institutions of higher education,) in excess of $10,000 shall contain suitable provisions for termination by grantee including the manner by which it will be effected and the basis for settlement.

1) Termination for Convenience – The Recipient may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly

submit its termination claim to the Recipient to be paid the Contractor. If the Contractor has any property in its possession belonging to the Recipient, the Contractor will account for the same, and dispose of it in the manner the Recipient directs.

2) Termination for Default [Breach or Cause] – If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

   If it is later determined by the Recipient that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Recipient, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

3) Opportunity to Cure – The Recipient in its sole discretion may, in the case of a termination for breach or default, allow the Contractor ten (10) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

   If Contractor fails to remedy to Recipient's satisfaction the breach or default of any of the terms, covenants, or conditions of this contract within ten (10) days after receipt by Contractor of written notice from Recipient setting forth the nature of said breach or default, Recipient shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.

4) Waiver of Remedies for any Breach – In the event that Recipient elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by Recipient shall not limit Recipient's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

5) Termination for Default [Construction] – If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the Recipient may terminate this contract for default. The Recipient shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

   The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if:

   i) the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargos; and
   ii) the Contractor, within ten (10) days from the beginning of any delay, notifies the Recipient in writing of the causes of delay. If in the judgment of the Recipient, the delay is excusable, the time for completing the work shall be extended. The judgment of the Recipient shall be final and conclusive on the parties, but subject to appeal under the Breaches and Disputes Resolution clauses.

   If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Recipient.

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NON-PROCUREMENT): – 49 CFR Part 29 – Executive Order 12549

Applicability: The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed $25,000.

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by WYDOT and the Recipient. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to WYDOT and the Recipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

CIVIL RIGHTS: 29 U.S.C. § 623 – 42 U.S.C. § 2000 – 42 U.S.C. § 6102 – 42 U.S.C. § 12112 – 42 U.S.C. § 12132 – 49 U.S.C. § 5332 – 29 CFR Part 1630 – 41 CFR Parts 60 et seq.

Applicability: Civil Rights requirements apply to all contracts.

The following requirements apply to the underlying contract:

1) Nondiscrimination – In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202, of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2) Equal Employment Opportunity – The following equal opportunity requirements apply to the underlying contract:
   i) Race, Color, Creed, National Origin, Sex – In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
   ii) Age – In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
   iii) Disabilities – In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

REVENUE ROLLING STOCK ACCESSIBILITY

Rolling stock must comply with the accessibility requirements of DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37, and Joint ATBCB/DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 CFR Part 1192 and 49 CFR Part 38.

BREACHES AND DISPUTE RESOLUTION: 49 CFR Part 18 – FTA Circular 4220.1F

Applicability: All contracts in excess of $100,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

1) Disputes. Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of Recipient's Project Sponsor. This decision shall be final and

conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Project Sponsor. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Project Sponsor shall be binding upon the Contractor and the Contractor shall abide by the decision.

2) Performance During Dispute. Unless otherwise directed by Recipient, Contractor shall continue performance under this Contract while matters in dispute are being resolved.
3) Claims for Damages. Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whole acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.
4) Remedies. Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Recipient and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Recipient is located.
5) Rights and Remedies. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Recipient, Architect or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROVISION: 49 CFR Part 26

Applicability: DBE provisions apply to all FTA-assisted contracts.

1) This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.* The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The Wyoming Department of Transportation's overall goal for DBE participation in FTA funded projects is 1.03%. A separate contract goal has **not been** established for this procurement.
2) The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Wyoming Department of Transportation and the Recipient deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)).
3) The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
4) The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from WYDOT or the Recipient. In addition, the contractor may not hold retainage from its subcontractors.
5) The contractor must promptly notify WYDOT and the Recipient, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of WYDOT and the Recipient.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS: FTA Circular 4220.1F

Applicability: The incorporation of FTA terms applies to all contracts.

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.

STATE AND LOCAL LAW DISCLAIMER:

Applicability: State and Local Law Disclaimer provisions apply to all contracts.

The use of many of the suggested clauses are not governed by Federal law, but are significantly affected by State law. The language of the suggested clauses may need to be modified depending on state law, and that before the suggested clauses are used in the grantees procurement documents, the grantees should consult with their local attorney.