

CABARRUS COUNTY



BOARD OF COMMISSIONERS WORK SESSION

**February 4, 2019
4:00 PM**

-
- 1. CALL TO ORDER - CHAIRMAN**
 - 2. APPROVAL OF WORK SESSION AGENDA - CHAIRMAN**
 - 2.1. BOC - Changes to the Agenda
 - 3. DISCUSSION ITEMS - NO ACTION**
 - 3.1. Infrastructure and Asset Management - Parking Deck Update
 - 3.2. Sheriff's Office - Government Services Division
 - 4. DISCUSSION ITEMS FOR ACTION**
 - 4.1. Infrastructure and Asset Management - Design Contract and Proposed Project Schedule
 - 4.2. BOC - Rules of Procedures
 - 4.3. County Manager - Budget for the Sale of Mt. Pleasant Middle School Site
 - 4.4. County Manager - Proposed Back Creek Greenway
 - 4.5. County Manager - Raw Water Line Easement at Coddle Creek
 - 4.6. DHS - Transportation 5310 Elderly and Handicapped Grant
 - 4.7. Finance - Cabarrus County Courthouse Reimbursement Resolution
 - 4.8. Library - Copier Fees
 - 4.9. Tax Administration - Advertisement of 2018 Delinquent Taxes
 - 5. APPROVAL OF REGULAR MEETING AGENDA**
 - 5.1. BOC - Approval of Regular Meeting Agenda
 - 6. CLOSED SESSION**
 - 6.1. Closed Session - Pending Litigation and Economic Development
 - 7. ADJOURN**

In accordance with ADA regulations, anyone in need of an accommodation to participate in the meeting should notify the ADA coordinator at 704-920-2100 at least 48 hours prior to the meeting.

CABARRUS COUNTY



BOARD OF COMMISSIONERS WORK SESSION

**February 4, 2019
4:00 PM**

AGENDA CATEGORY:

Approval of Work Session Agenda - Chairman

SUBJECT:

BOC - Changes to the Agenda

BRIEF SUMMARY:

A list of changes to the agenda is attached.

REQUESTED ACTION:

Motion to approve the agenda as amended.

EXPECTED LENGTH OF PRESENTATION:

1 Minute

SUBMITTED BY:

Lauren Linker, Clerk to the Board

BUDGET AMENDMENT REQUIRED:

No

COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:

ATTACHMENTS:

- Changes to the Agenda



**CABARRUS COUNTY BOARD OF COMMISSIONERS
CHANGES TO THE AGENDA
FEBRUARY 4, 2019**

ADDITIONS:

Closed Session

6-1 Closed Session – Pending Litigation and Economic Development

CABARRUS COUNTY



BOARD OF COMMISSIONERS WORK SESSION

**February 4, 2019
4:00 PM**

AGENDA CATEGORY:

Discussion Items - No Action

SUBJECT:

Infrastructure and Asset Management - Parking Deck Update

BRIEF SUMMARY:

Staff will provide an update on the parking deck project including contract status, initial construction schedule, utilities, and current geotechnical and environmental findings.

REQUESTED ACTION:

No action required.

EXPECTED LENGTH OF PRESENTATION:

5 Minutes

SUBMITTED BY:

Kyle Bilafer, Area Manager of Operations

BUDGET AMENDMENT REQUIRED:

No

COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:

CABARRUS COUNTY



BOARD OF COMMISSIONERS WORK SESSION

**February 4, 2019
4:00 PM**

AGENDA CATEGORY:

Discussion Items - No Action

SUBJECT:

Sheriff's Office - Government Services Division

BRIEF SUMMARY:

The reorganization of the Sheriff's Office includes a Governmental Services Division and a Personnel Addition Request. The Sheriff of Cabarrus County has reorganized the command structure of the Sheriff's Office to include a Division Captain responsible for oversight of security and law enforcement function for all county owned facilities and grounds. Additionally, this Captain will oversee all services provided by the Sheriff's Office for Cabarrus County (Communications and Animal Control). In order to effectively carry out the increased need for security and law enforcement function associated with this new division and to fulfill the needs for the growing governmental footprint, the Sheriff requests two additional sworn personnel be added to budget year FY 2019-2020 on a recurring basis. In addition, the Sheriff requests one additional Sergeant allocation, on a recurring basis, to provide direct supervision for the new staffing. The Sheriff also requests the reallocation of two currently vacant courthouse security positions to supplement the staffing of this new division on a temporary basis to facilitate making the division operational quickly until funding is provided in FY 2019-2020, at which time the positions will revert back to courthouse security.

REQUESTED ACTION:

We request approval of the allocation of 2 additional governmental services sworn personnel and one additional sworn Sergeant position to fulfill the needs highlighted in the summary and by the presentation provided for FY 2019-2020. We also request temporary reallocation of the two sworn positions described until funding is established for the requested additional personnel.

EXPECTED LENGTH OF PRESENTATION:

15 Minutes

SUBMITTED BY:

Chief Deputy James N. Bailey

BUDGET AMENDMENT REQUIRED:

No

COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:

ATTACHMENTS:

- GSG PPT

Cabarrus County



Sheriff's Office

Sheriff Van W. Shaw

Government Security Division

Cabarrus County



Sheriff's Office

Sheriff Van W. Shaw

Government Security Division

Purpose:

To provide for consistent and coordinated security for Cabarrus County Governmental facilities, county employees, and the citizens served at these locations.



Currently:

Cabarrus County Sheriff's Office has a full time deputy assigned to:

- Department of Human Services
- Concord Branch of the Library
- Additional 20 hours of coverage for the library each week
- A deputy is also assigned to provide security for the daily financial escort and security for the County Commissioner's meetings.
- These assignments account for approximately 7 ½ hours per week of a deputy's time.

Cabarrus County



Sheriff's Office

Sheriff Van W. Shaw

Government Security Division

Forthcoming 03/01/2019:

- The county owned parking deck in downtown Concord.
- This division will be responsible for answering calls for service in the parking deck.
- CPD will assist with any emergency calls for service.





In order to provide an enhanced level of security and law enforcement response to all county government locations, the following additional deputy positions are requested:

- (1) – Department of Human Services (Existing position)
- (2) – Concord Library (Existing position)
- (3) – Library/ Evening Officer/Financial Escort/ Other Library Branches (New Position)
- (4) – Library / DHS / Parking Deck Response & Patrol / Governmental Buildings (New Position)

Cabarrus County



Sheriff's Office

Sheriff Van W. Shaw

Government Security Division

The two additional deputies will allow for continuous coverage at the two current locations when assigned personnel are out of work due to sickness, training, or FMLA. This will allow for coverage without reducing staff on patrol.

Cabarrus County



Sheriff's Office

Sheriff Van W. Shaw

Government Security Division

Supervisory Sergeant (New Position)

- Daily Supervision of the unit and coordination of all security needs for county operations.
- The supervisor's office would be located in the front entrance area of the Sheriff's Office with video monitoring of all accessible cameras.
- This will also provide an armed law enforcement presence at the Sheriff's Office public entrance.



Additional Benefits of expansion:

- Routine presence in the Governmental Center.
 - Response to calls for service related to the parking deck during peak usage.
 - Escorts of disgruntled or terminated employees and disruptive citizens.
 - On site emergency response as needed.
 - Single point of contact for security concerns.
 - Coordinate response to threats on employees.
 - Increased focus on security concerns related to the exteriors of the county buildings in the downtown area.
- Provide for a coordinated point of contact for our county recreational park locations and their security needs.
- Alleviates the manpower issues for the civil, patrol, and community policing divisions.

CABARRUS COUNTY



BOARD OF COMMISSIONERS WORK SESSION

**February 4, 2019
4:00 PM**

AGENDA CATEGORY:

Discussion Items for Action

SUBJECT:

Infrastructure and Asset Management - Design Contract and Proposed Project Schedule

BRIEF SUMMARY:

Staff will provide an update on the Cabarrus County Courthouse Project and request execution of the design contract with Silling Architects.

REQUESTED ACTION:

Motion to approve the contract between Cabarrus County and Silling Architects; and authorize the County Manager to execute the contract on behalf of Cabarrus County, subject to review or revisions by the County Attorney.

EXPECTED LENGTH OF PRESENTATION:

30 Minutes

SUBMITTED BY:

Kyle Bilafer, Area Manager of Operations
Jonathan Marshall, Deputy County Manager

BUDGET AMENDMENT REQUIRED:

No

COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:

ATTACHMENTS:

- ▣ Presentation
- ▣ Design Contract
- ▣ Commissioning Contract
- ▣ Furniture, Furnishings, and Equipment Design
- ▣ Hourly Rates

CABARRUS COUNTY COURTHOUSE

PROJECT REVIEW

Concord, NC

2.4.2019



ITEMS FOR DISCUSSION

- 1. Programming Progress**
- 2. Selected Test Fit Urban Response Massing Study**
- 3. Test Fit Scope**
- 4. Preliminary Schedule**
- 5. Project Rough Order Of Magnitude Pricing**
- 6. Owner Architect Agreement**

PROJECT PROGRESS – PROGRAMMING MILESTONES

APRIL 2018

- **2 Weeks On-site Courthouse Observations**

Including preliminary discussions with judges, DA, private attorneys, elected officials, and users

MAY + JUNE 2018

- **NC Courthouse Tours**

Union, Gastonia, Mecklenburg, Chatham, Durham, and Wake

JULY + AUGUST 2018

- **Detailed Discussion of User Space Requirements**

On-site observations in greater detail including review of existing space utilization, current and future needs and discussions with users, operations and maintenance

Site and existing building analysis.

Develop n understanding of the urban fabric and the city of Concord

AUGUST - NOVEMBER 2018

- **Development and Review of Test Fit Studies**

Development and critique of **5 Test Fit options** (?)

Owner review, Rough Order of Magnitude Pricing

Arrive at Favored Option

DEVELOPMENT FRAMEWORK







The development framework for downtown aligns the development program to available opportunity sites and utilizes a catalytic public investment strategy to encourage public and private sector redevelopment and improvements to the downtown experience. It is the guide for revitalizing downtown.

In order to achieve the recommended development program, the Master Plan identifies Catalytic Project concepts that are designed strategically to:

- Focus on specific areas of downtown where key public interventions can leverage private investments;
- Strengthen and meet the demand for downtown businesses, commercial space and residential units;
- Maximize the fiscal, economic and community benefits to the downtown and the entire City;
- Create and sustain a new downtown experience that attracts new investment, visitors, residents and workers.

Although the projects are discussed independently, all of the projects work together for the benefit of the entire downtown.

CATALYTIC PROJECTS

- | | |
|--|---|
|  Catalyst 1 |  Catalyst 4 |
|  Catalyst 2 |  Catalyst 5 |
|  Catalyst 3 |  Long-term Projects* |

*Refer to the Downtown Urban Design Plan for more information concerning Long-term Projects.





NEW
ADDITION

EXIST
COURTHOUSE

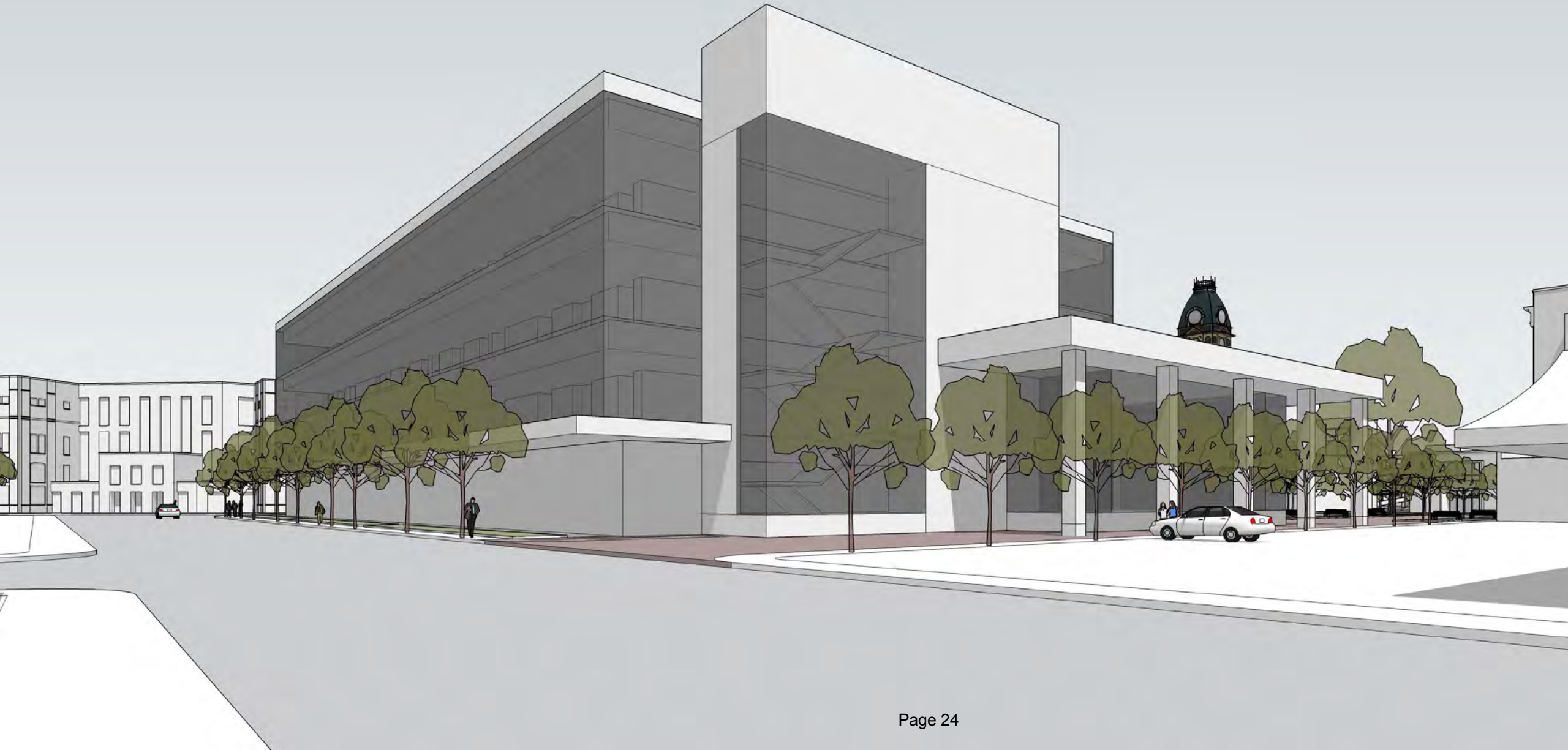
Test Fit Massing Image



Test Fit
Massing Image



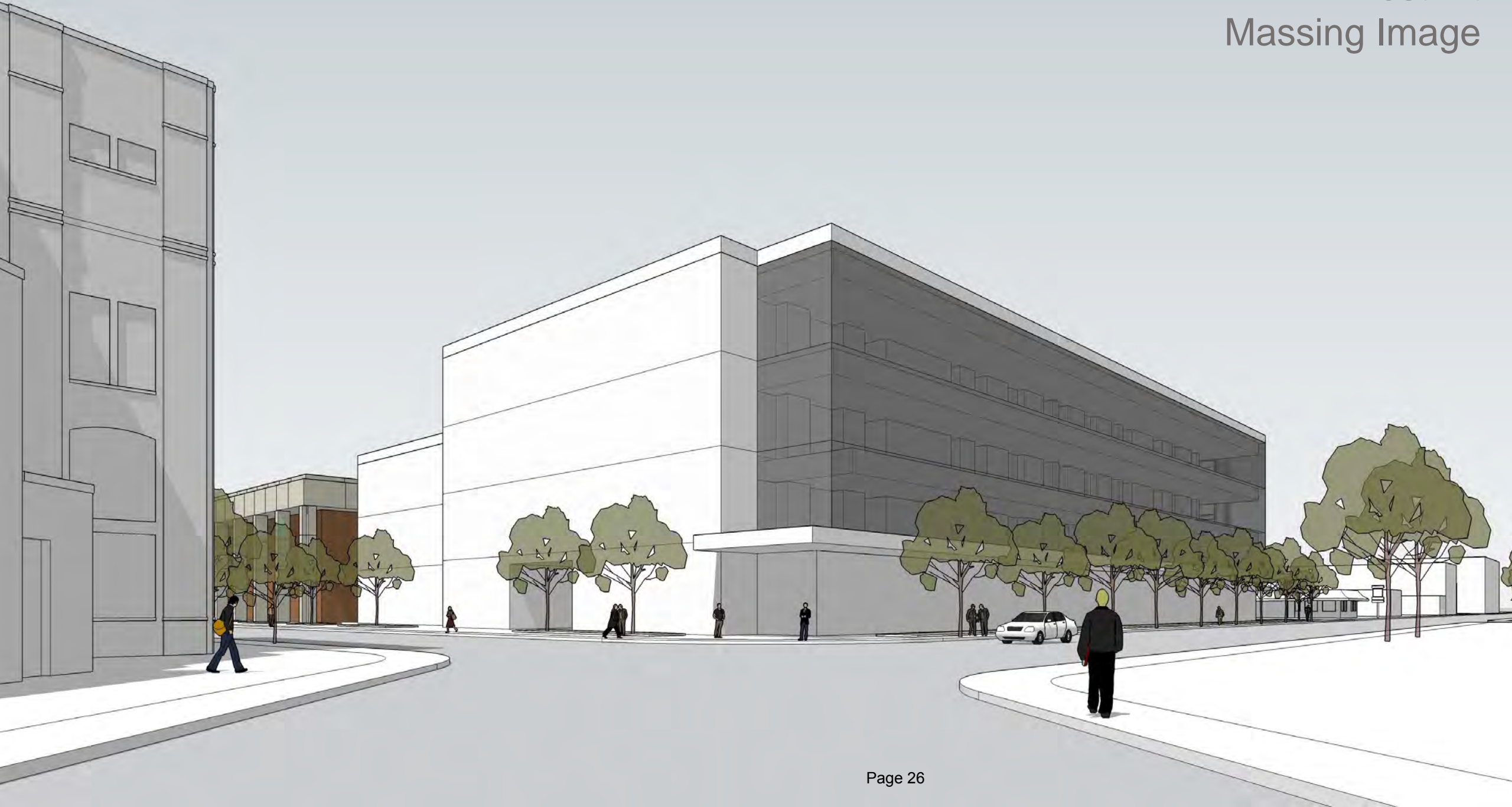
Test Fit
Massing Image



Test Fit Massing Image



Test Fit
Massing Image



Test Fit

4 STORIES ABOVE GRADE + BASEMENT

**AREA: 240K NEW GROSS SQUARE FEET
72K EXISTING GROSS SQUARE FEET**

**COURTROOMS: 4 SUPERIOR COURT JURY CAPABLE
6 DISTRICT COURT
1 FUTURE TRIAGE COURTROOM
7 POTENTIAL FUTURE COURTROOMS – DISTRICT AND SUPERIOR**

**OFFICE SPACE: JUDGES OFFICE SUITE
CLERK OF COURTS
DISTRICT ATTORNEY OFFICE SUITE
COMMUNITY CORRCETIONS
JUVENILE PROBATION
CONFLICT RESOLUTION
GUARDIAN AD LITEM**

SHELL SPACE: 45K SHELL SPACE: 31K IN EXISTING AND 14K IN NEW

PREMINARY PROJECT SCHEDULE

A/E SCHEMATIC DESIGN

A/E DESIGN DEVELOPMENT

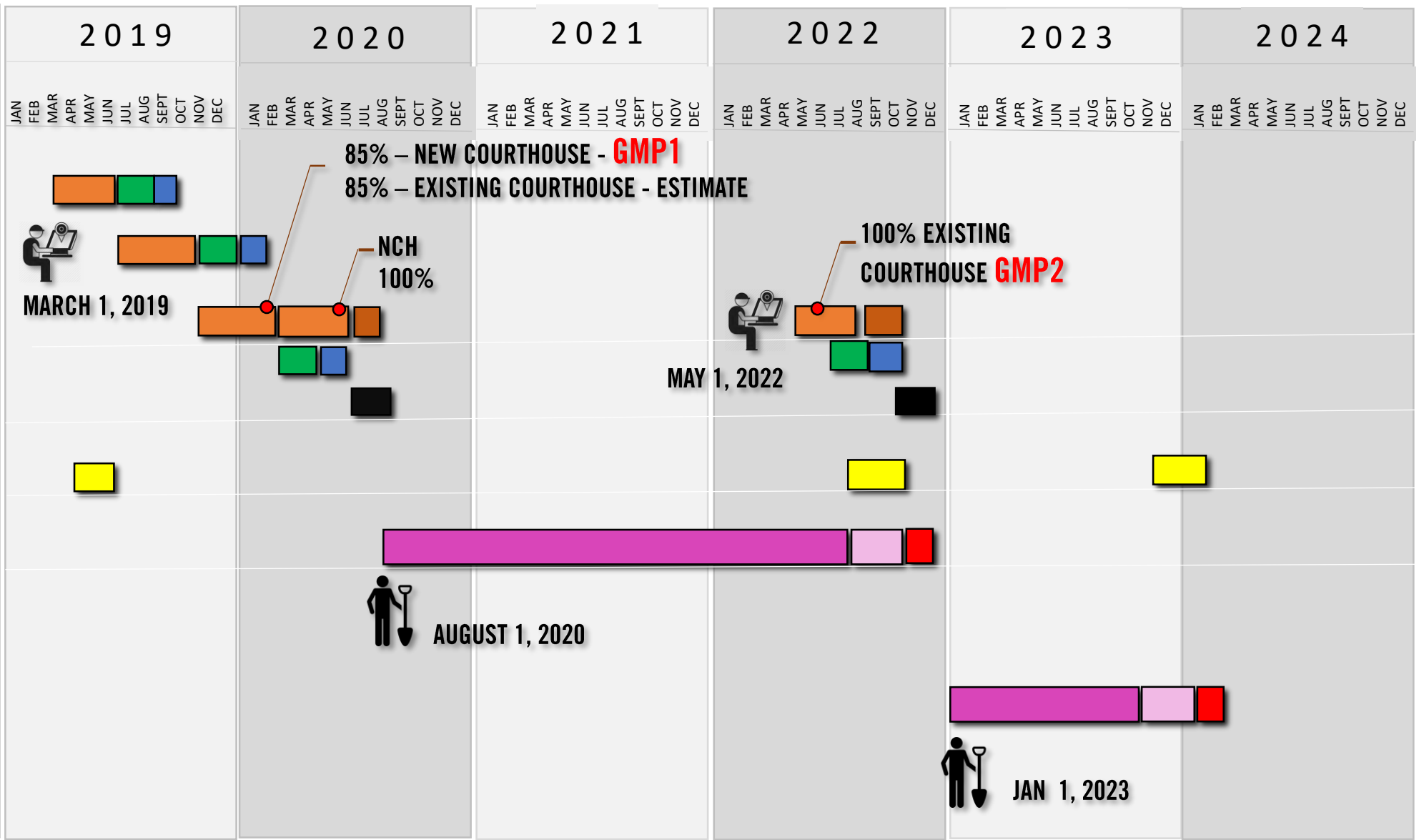
A/E CONSTRUCTION DOCUMENTS

PROJECT FUNDING

A FURNITURE, FIXTURES EQUIP

CMR – CONSTRUCTION NEW COURTHOUSE

CMR –CONSTRUCTION EXISTING COURTHOUSE



GMP – GUARANTEED MAXIMUM PRICE CONSTRUCTION CONTRACT

■ A/E DESIGN ACTIVITY
■ PRICING
■ BOARD APPROVAL

■ PERMITTING
■ CONSTRUCTION
■ CLOSEOUT AND COMMISSIONING

■ PROJECT FUNDING
■ FURNITURE, FIXTURES EQUIPMENT – DESIGN AND PROCUREMENT
■ OCCUPANCY

PREMINARY PROJECT SCHEDULE

A/E SCHEMATIC DESIGN

A/E DESIGN DEVELOPMENT

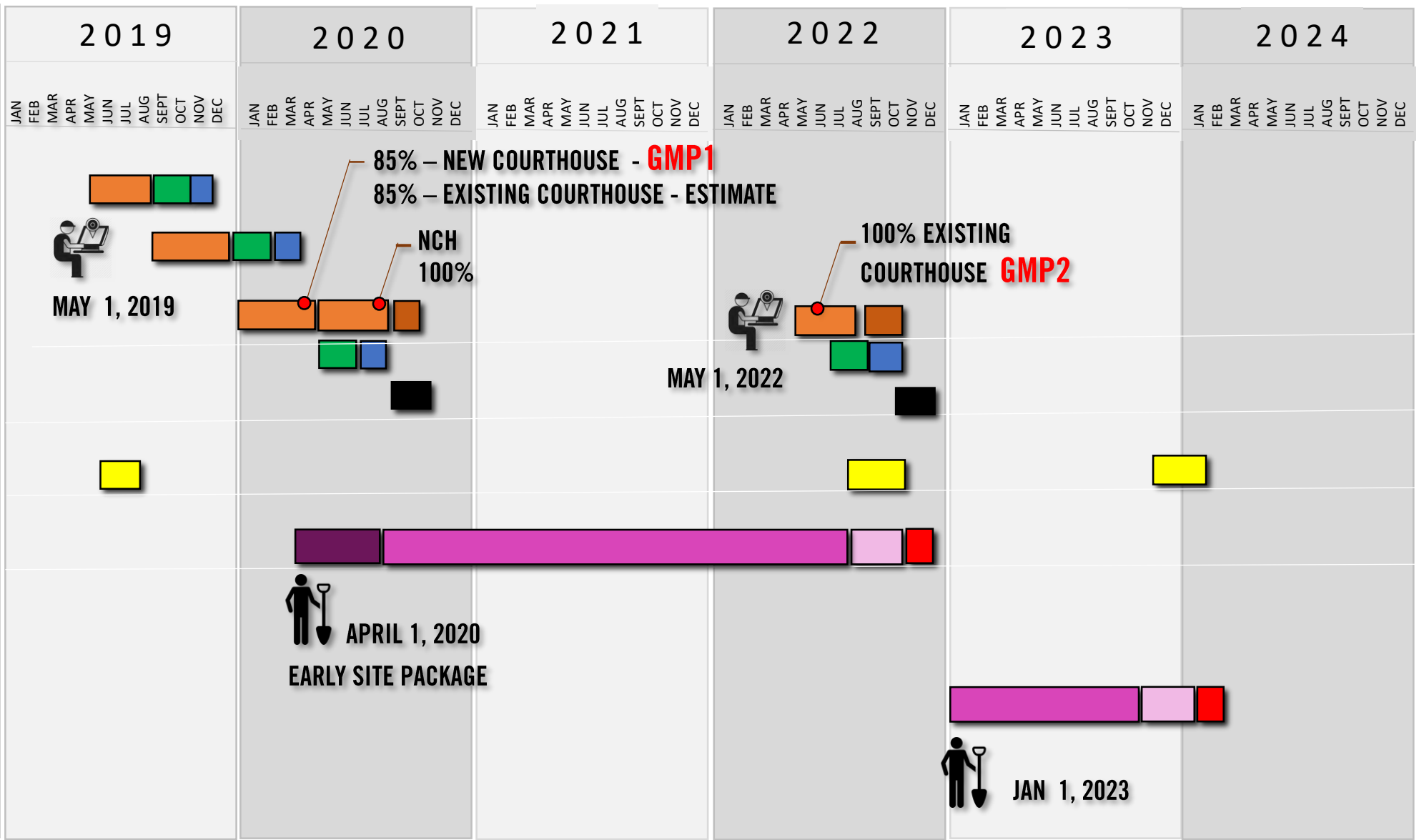
A/E CONSTRUCTION DOCUMENTS

PROJECT FUNDING

FURNITURE, FIXTURES EQUIP

CMR – CONSTRUCTION
NEW COURTHOUSE

CMR -CONSTRUCTION
EXISTING COURTHOUSE



GMP – GUARANTEED MAXIMUM PRICE CONSTRUCTION CONTRACT

■ A/E DESIGN ACTIVITY
■ PRICING
■ BOARD APPROVAL

■ PERMITTING
■ CONSTRUCTION
■ CLOSEOUT AND COMMISSIONING

■ PROJECT FUNDING
■ FURNITURE, FIXTURES EQUIPMENT – DESIGN AND PROCUREMENT
■ OCCUPANCY

Rough Order of Magnitude Project Cost

Site Development	\$ 3,500,000	
New Courthouse	81,500,000	
<u>Existing Courthouse Renovations</u>	<u>15,000,000</u>	
Total Construction Cost		\$100,000,000
Furnishing, Fixtures and Equipment	\$ 3,000,000	
Audio Visual	1,000,000	
A/E Basic Design Fee	5,750,000	
A/E Basic Construction Administration	1,250,000	
Augmented Construction Administration	468,000	
Furnishing, Fixtures and Equipment Design	320,000	
Reimbursable Expenses	10,000	
Third Part Estimator	50,000	
Third Party Testing	300,000	
Pre Design Site Engineering and Testing	100,000	
Commissioning	300,000	
Construction Imaging	140,000	
<u>Property Acquisition & Utility Relocation</u>	<u>2,400,000</u>	
Soft Cost		15,088,000
Project Contingency		<u>5,600,000</u>
		\$120,688,000

OWNER ARCHITECT AGREEMENT

AIA B133 – STANDARD FORM OF AGREEMENT BETWEEN OWNER AND ARCHITECT

BASIC A/E DESIGN SERVICES

5.75% OF BUILDING CONSTRUCTION COST

CIVIL AND LANDSCAPING
ARCHITECTURAL
SECURITY
STRUCTURAL
HVAC
PLUMBING
FIRE PROTECTION
ELECTRICAL POWER AND LIGHTING
COMMUNICATIONS AND BUILDING SYSTEMS

BASIC A/E CONSTRUCTION SERVICES

1.25% OF BUILDING CONSTRUCTION COST

DAY-TO-DAY DESIGN TEAM ADMINISTRATIVE CONNECTION TO CMR
SUBMITTAL PROCESSING
RESPOND TO CMR DOCUMENTED INQUIRIES – REQUEST FOR INFORMATION – RFIs
PAY APPLICATION PROCESSING
BASIC SERVICES SITE VISITS, PRE-INSTALLTION MEETINGS, SUBSTANTIAL AND FINAL COMPLETION INSPECTIONS -72

AUGMENTED A/E CONSTRUCTION SERVICES – ADDITIONAL SITE VISITS

33% - 50%	CONSTRUCTION COMPLETE	6 MONTHS OF	40 ADDITIONAL	HOURS MONTH
50% - 75%	CONSTRUCTION COMPLETE	12 MONTHS OF	120 ADDITIONAL	HOURS MONTH
75% - 100%	CONSTRUCUTION COMPLETE	6 MONTHS OF	60 ADDITIONAL	HOURS MONTH

FURNITURE, FIXTURES AND EQUIPMENT – ADDITIONAL SERVICES

8% OF FURNITURE FIXTURES AND EQUIPMENT VAULE

AIA[®] Document B133[™] – 2014

Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition

AGREEMENT made as of the day of in the year

(Paragraph deleted)

BETWEEN the Architect's client identified as the Owner:

Cabarrus County Commission

PO Box 707

Concord, NC 28026-0707

Telephone Number: 704.305.9723

and the Architect:

Silling Associates, Inc.

405 Capitol Street, Upper Atrium

Charleston, WV 25301

Telephone Number: 304.346.0565

Fax Number: 304.346.1522

for the following Project:

Cabarrus County Courthouse

Concord, NC

New Courthouse and Existing Courthouse Renovation

The Construction Manager (if known):

Messer Construction Co.

4201 Stuart Andrew Boulevard

Suite B

Charlotte, NC 28217-1528

Telephone Number: 704.679.6000

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A201[™]–2007, General Conditions of the Contract for Construction; A133[™]–2009 Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price; and A134[™]–2009 Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price. AIA Document A201[™]–2007 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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User Notes:

(1347713615)

TABLE OF ARTICLES

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10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(Paragraph deleted)

§ 1.1.1 The Owner's program for the

(Paragraphs deleted)

Project to include site utilization, building form, massing and orientation, current and proposed future courtroom space planning requirements, current and future departmental space planning requirements, secure circulation and building zoning, space planning utilization of the existing Cabarrus County Courthouse, building systems general requirements, and project phasing is represented in the Test Fit Study developed during the Cabarrus County Courthouse Facility Programming Phase and indicated in exhibit X included in this agreement. The additional detailed programming requirements will be developed as a component of the design phases included in the Basic Services of this agreement.

§ 1.1.2 The Project's physical characteristics:

(Paragraph deleted)

The Courthouse Project includes approximately 245,000 gross square feet new construction and renovation of approximately 73,000 gross square feet of the existing Cabarrus County Courthouse. The new courthouse is to be constructed in the current county-owned, surface parking lot (as illustrated in the boundary and topographic site survey provided by the County) extending northeast of the existing facility to Church Street, and extending from Corban Avenue on the southeast into and occupying Means Avenue to the northwest as indicated in the Test Fit study developed during the Cabarrus County Courthouse Facility Programming Phase.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

- | | |
|---|--------------|
| 1. Construction Package 1 (GMP 1) Site Development and New Courthouse Construction Cost | \$85,000,000 |
| 2. Construction Package 2 (GMP 2) Existing Courthouse Renovations Construction Cost | \$15,000,000 |

§ 1.1.4 The Owner's anticipated design and construction schedule assumes the Project is to be developed with the following construction contracts and design phasing in order to facilitate continued operation of the existing courthouse and enable project funding:

GMP 1- Guaranteed Maximum Price – Construction Package 1: Site Development and New Courthouse Construction
 GMP 2- Guaranteed Maximum Price – Construction Package 2 - Existing Courthouse Renovations

The Architect shall develop the design and construction documents of both of the GMP Construction Packages 1 and 2 through 85% design completion (target milestone date: February 28, 2020) for the Owner approval of the Total Construction Cost and related Total Estimated Project Budget. Upon completion of the 85% Construction Documents and occurring concurrently with the CMR's pricing and Owner approval phase, the Architect shall proceed to the development of 100% design completion of the Construction Package 1 Construction Documents (target milestone May 31, 2020) for permitting and construction commencement on August 3, 2020.

Nearing the 75% construction completion of Construction Package 1 (targeted milestone April 30, 2022) the Architect shall proceed to the 100% design completion of the Construction Package 2 Construction Documents (target milestone June 30, 2022) for permitting and construction commencement on December 1, 2022.

- .1 Design phase milestone dates:

SCHEMATIC DESIGN		(30% of Total Design Effort)
Programming Finalization and Schematic Design Commencement		March 1, 2019
Schematic Design Completion		July 1, 2019
Schematic Design Public Review and Comment Period		July 1, 2019 – August 30, 2019
Schematic Design Phase Estimating and Reconciliation		August 30, 2019
Cabarrus County Design Approval		September 16, 2019
DESIGN DEVELOPMENT		(30% of Total Design Effort)
Design Development Commencement		July 2, 2019
Design Development Phase Estimating and Reconciliation		December 31, 2019
Cabarrus County Design Approval		January 20, 2020
CONSTRUCTION DOCUMENTS		(40% of Total Design Effort)
Construction Document Phase Commencement		July 2, 2019
85% Design Completion Construction Packages 1 and 2		February 28, 2020
Constr. Package 1 (GMP 1) Pricing and Constr. Package 2 Estimating and Recon.		April 30, 2020
100% Design Completion Construction Package 1		May 31, 2020
Cabarrus County Design Approval		May 31, 2020
100% Design Completion Construction Package 2		June 30, 2022
Constr. Package 2 (GMP 2) Pricing Reconciliation		August 31, 2022
Cabarrus County Design Approval		September 30, 2022

- .2 Commencement of construction: The following is subject to verification with the Construction Manager and any necessary adjustments to the above design schedule and actual construction timelines of Construction Package 1

Construction Package 1 - Site Development and New Courthouse Construction:	August 3, 2020
Construction Package 2 - Existing Courthouse Renovation:	December 1, 2022

- .3 Substantial Completion date or milestone dates:

Construction Package 1 - Site Development and New Courthouse Construction:	August 31, 2022
Construction Package 2 - Existing Courthouse Renovation:	November 30, 2023
Other:	

§ 1.1.5 The Owner intends to retain a Construction Manager pursuant to the following agreement:

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 User Notes:

(1347713615)

(Paragraph deleted)

- AIA Document A133–2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

- AIA Document A134–2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price.

§ 1.1.6 The Owner's requirements for accelerated or fast-track scheduling or phased construction are set forth below:
See Article 1.1.4 for a description of the Owner's requirement for the Construction Manager's bid packages.

(Paragraphs deleted)

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.5:

Mr. Kyle Bilafer, Area Manager of Operations
Cabarrus County NC
PO Box 707
Concord NC 28026-0707

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

N/A

§ 1.1.10 The Owner will retain the following consultants:

(Paragraphs deleted)

- .1 Construction Manager:
Messer Construction Company
- .2 Cost Consultant (if in addition to the Construction Manager):
If a Cost Consultant is retained, appropriate references to the Cost Consultant should be inserted in Sections 3.3.6, 3.3.7, 3.4.2, 3.4.3, 3.5.4, 3.5.5, 5.4, 6.3, 6.3.1, 6.4 and 11.6.)

The Owner's Cost Consulting is to be provided by the Construction Manager

- .3 Land Surveyor:
CESI
45 Spring Street SW
Concord, NC
28025

- .4 Geotechnical Engineer:

CESI
45 Spring Street SW
Concord, NC
28025

.5

(Paragraphs deleted)

Other consultants:

Third-Party Construction Phase Testing to be determined.

§ 1.1.11 The Architect identifies the following representatives in accordance with Section 2.4:

Mr. Tom Potts, AIA, Silling Architects, Principal-in Charge
Mr. Jody Driggs, AIA, Vice President, Silling Architects, Associate Principal-in-Charge
Mr. Jeremy Jones, AIA Project Manager, Silling Architects
Mr. Fred Pack, Assoc. AIA, Construction Administration Manager

Silling Associates, Inc.
405 Capitol Street, Upper Atrium
Charleston, WV 25301
Telephone Number: 304.346.0565
Fax Number: 304.346.1522

§ 1.1.12 The Architect will retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2:

(Paragraph deleted)

§ 1.1.12.1 Consultants retained under Basic Services:

- .1 Structural Engineer:
Lynch Mykins
415 Hillsborough Street
Suite 101
Raleigh, NC 27603
Telephone Number: 919-782-1833
- .2 Mechanical Engineer:
Scheeser Buckley Mayfield
1540 Corporate Woods Parkway
Uniontown, OH 44685
Telephone Number: 330.526.2600
- .3 Electrical Engineer:
Scheeser Buckley Mayfield
1540 Corporate Woods Parkway
Uniontown, OH 44685
Telephone Number: 330.526.2600
- .4 Civil Engineer and Landscape Design:

Kimley Horn
200 South Tryon Street Suite 200
Charlotte, NC 28202
Telephone Number: 704.333.5131

.5 Telecommunications/Data Design

Scheeser Buckley Mayfield
1540 Corporate Woods Parkway
Uniontown, OH 44685
Telephone Number: 330.526.2600

(Paragraphs deleted)

§ 1.1.13 Other Initial Information on which the Agreement is based:

N/A

Init.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in the agreement identified in Section 1.1.5. The Architect shall not be responsible for actions taken by the Construction Manager.

§ 2.4 The Architect shall identify representatives authorized to act on behalf of the Architect with respect to the Project.

§ 2.5 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.6 **Insurance.** The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost as set forth in Section 11.8.3.

§ 2.6.1 Commercial General Liability with policy limits of not less than One Million Dollars (\$ 1,000,000) for each occurrence and Two Million Dollars (\$ 2,000,000) in the aggregate for bodily injury and property damage.

§ 2.6.2 Automobile Liability covering vehicles owned by the Architect and non-owned vehicles used by the Architect with policy limits of not less than One Million Dollars (\$ 1,000,000) per claim and Two Million Dollars (\$ 2,000,000) in the aggregate for bodily injury and property damage along with any other statutorily required automobile coverage.

§ 2.6.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections 2.6.1 and 2.6.2.

§ 2.6.4 Workers' Compensation at statutory limits and Employers Liability with policy limits of not less than One Million (\$ 1,000,000).

§ 2.6.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than Five Million (\$ 5 Million) per claim and Five Million (\$ 5 Million) in the aggregate.

§ 2.6.6 The Owner shall be an additional insured on the Architect's primary and excess insurance policies for Commercial General Liability and Automobile Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations.

§ 2.6.7 The Architect shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.6. The certificates will show the Owner as additional insureds on the Commercial General Liability, Automobile Liability, and any excess policies.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner and the Construction Manager, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner and the Construction Manager a schedule of the Architect's services for inclusion in the Project schedule prepared by the Construction Manager. The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner's review, (2) for the Construction Manager's review, (3) for the performance of the Construction Manager's Preconstruction Phase services, (4) for the performance of the Owner's consultants, and (5) for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.4 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project schedule relating to the performance of the Architect's services.

§ 3.1.5 Once the Owner, Construction Manager, and Architect agree to the time limits established by the Project schedule, the Owner and Architect shall not exceed them, except for reasonable cause.

§ 3.1.6 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming work, made without the Architect's approval.

§ 3.1.7 The Architect shall, at appropriate times, in coordination with the Construction Manager, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.8 The Architect shall assist the Owner and Construction Manager in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Evaluation of the Construction Manager's Guaranteed Maximum Price Proposal or Control Estimate

§ 3.2.1 Prior to the Owner's acceptance of the Guaranteed Maximum Price proposal or Control Estimate, as applicable, the Architect shall consider the Construction Manager's requests for substitutions and, upon written request of the Construction Manager, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owner on all communications related to substitution requests, clarifications, and interpretations.

§ 3.2.2 During the Construction Document phase, the Owner will receive Guaranteed Maximum Price proposals from the Construction Manager. The Architect shall assist the Owner in reviewing the Construction Manager's proposal or estimate. The Architect's review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager's proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager.

§ 3.2.3 Upon authorization by the Owner, and subject to Section 4.3.1.15, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 3.3 Schematic Design Phase Services

§ 3.3.1 The Architect shall review the program and other information furnished by the Owner and Construction Manager, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.3.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.3.3 The Architect shall present its preliminary evaluation to the Owner and Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project, including the feasibility of incorporating sustainable design approaches, and consideration of the implementation of the Owner's sustainable objective, if any. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.3.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present to the Owner and Construction Manager, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.3.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval and the Construction Manager's review and Schematic Design Cost estimate

Deliverables: The Schematic Design Documents shall consist of the following drawings, written narratives and specifications.

1. Site Plan and Site Sections
2. 1/8" = 1'-0" Building Demolition Floor Plans
3. 1/8" = 1'-0" Architectural Building Floor Plans
4. 1/8" = 1'-0" Security Floor Plans
5. 1/4" = 1'-0" Courtroom Floor Plans and Preliminary Audio-Visual Design
6. Three-Dimensional Digital Courtroom Site-Line Study Perspective Images
7. 1/8" = 1'-0" Architectural Building Elevations
8. 1/8" = 1'-0" Architectural Building Sections
9. Three-Dimensional Digital Building Study Model Perspective Images
10. Photorealistic Presentation Quality Perspective Images
11. Courtroom Mockup Construction Documents and Specifications
12. Preliminary Building, Structural, Mechanical and Electrical one-line design drawings and Systems Narratives

§ 3.3.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, implications of sustainable code requirements enacted in the relevant jurisdiction, if any, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other sustainable design services under Article 4.

§ 3.3.5.2 The Architect shall consider with the Owner and the Construction Manager the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics in developing a design for the Project that is consistent with the Owner's schedule and budget for the Cost of the Work.

§ 3.3.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.

§ 3.3.7 Upon receipt of the Construction Manager's review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, identify agreed upon adjustments to the Project's size, quality, or budget, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.

§ 3.3.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the Owner.

§ 3.4 Design Development Phase Services

§ 3.4.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work pursuant to Section 5.4, the Architect shall prepare Design Development Documents for the Owner's approval and Construction Manager's review. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents

Deliverables: The Design Development Documents shall consist of drawings and outline specifications of the following building systems consistent with a Courthouse Project of the scale and quality outlined in Article 1.1.2.

1. Site Civil Engineering Design
2. Architectural Design
3. Structural Design
4. HVAC Design
5. Electrical Power
6. Lighting Design
7. Fire Alarm and Communication Design
8. Fire Protection Systems

The Design drawings and other documents shall include plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.4.2 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Design Development Documents.

§ 3.4.3 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.

§ 3.5 Construction Documents Phase Services

§ 3.5.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval and the Construction Manager's review. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Construction Manager will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.5.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.5.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and Construction Manager in the development and preparation of (1) the Conditions of the Contract for Construction (General, Supplementary and other Conditions) and (2) a project manual that includes the Conditions of the Contract for Construction and Specifications and may include sample forms.

§ 3.5.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Construction Documents.

§ 3.5.5 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7 and obtain the Owner's approval of the Construction Documents.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™-2007, General Conditions of the Contract for Construction. If the Owner and Construction Manager modify AIA Document A201-2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Owner's approval of the Construction Manager's Control Estimate, or the Owner's issuance of a Notice to Proceed to the Construction Manager. Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.1.3 The Architect shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Construction Manager's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager or of any other persons or entities performing portions of the Work.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule, and (2) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Construction Manager, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Construction Manager. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Construction Manager, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good

faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Construction Manager designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2007, the Architect shall render initial decisions on Claims between the Owner and Construction Manager as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Construction Manager

§ 3.6.3.1 The Architect shall review and certify the amounts due the Construction Manager and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Construction Manager's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Construction Manager's right to payment, or (4) ascertained how or for what purpose the Construction Manager has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Construction Manager's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Construction Manager's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Construction Manager's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Construction Manager to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Construction Manager that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with

reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Construction Manager in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Construction Manager and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Construction Manager; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Construction Manager of Work to be completed or corrected.

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Construction Manager, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Construction Manager: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Construction Manager under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 The services listed in the matrix below indicate services to be included in the Project as either Basic Services or Additional Services as designated in the "Responsibility" column. Basic Services are included in basic Services Compensation, Article 11.1. The Owner shall compensate the Architect as provided in Section 11.2.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Services	Responsibility <i>(Architect, Owner or Not Provided)</i>	Location of Service Description <i>(Section 4.2 below or in an exhibit attached to this document and identified below)</i>
§ 4.1.1 Assistance with selection of the Construction Manager	Provided by Architect in Preliminary Agreement	
§ 4.1.2 Programming (B202™-2009)	Provided by	

	Architect in Preliminary Agreement	
§ 4.1.3 Multiple preliminary designs	Provided by Architect in Preliminary	
§ 4.1.4 Measured drawings	Not Provided	
§ 4.1.5 Existing facilities surveys	Not Provided	
§ 4.1.6 Site evaluation and planning (B203™-2007)	Not Provided	
§ 4.1.7 Building information modeling	Architect Basic Service	Article 4.2
§ 4.1.8 Civil engineering	Architect Basic Services	Article 4.2
§ 4.1.9 Landscape design	Architect Basic Services	Article 4.2
§ 4.1.10 Architectural interior design (B252™-2007)	Architect Basic Services	Article 4.2
§ 4.1.11 Value analysis (B204™-2007)	Not Provided	
§ 4.1.12 Detailed cost estimating	Architect Basic Services	Article 4.2
§ 4.1.13 On-site project representation (B207™-2008)	Not Provided	
§ 4.1.14 Conformed construction documents	Not Provided	
§ 4.1.15 As-designed record drawings	Architect Basic Services	Article 4.2
§ 4.1.16 As-constructed record drawings	Architect Basic Services	Article 4.2
§ 4.1.17 Post occupancy evaluation	Not Provided	
§ 4.1.18 Facility support services (B210™-2007)	Not Provided	
§ 4.1.19 Tenant-related services	Not Provided	
§ 4.1.20 Coordination of Owner's consultants	Not Provided	
§ 4.1.21 Telecommunications/data design	Architect Basic Services	Article 4.2
§ 4.1.22 Security evaluation and planning (B206™-2007)	Architect Basic Services	Article 4.2
§ 4.1.23 Commissioning (B211™-2007)	Architect Additional Services	AIA B211
§ 4.1.24 Extensive environmentally responsible design	Architect Basic Services	Article 4.2
§ 4.1.25 LEED® certification (B214™-2012)	Not Provided	
§ 4.1.26 Historic preservation (B205™-2007)	Not Provided	
§ 4.1.27 Furniture, furnishings, and equipment design (B253™-2007)	Architect Additional Service	AIA B253
4.1.28 Extensive Construction Administration Services	Architect Additional Service	Article 4.2

§ 4.2 Insert a description of each Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

4.1.7 Building Information Modeling: As a component of Basic Services, included in Basic Services Compensation Article 11.1, the Architect will develop the design in the Design Development and Construction Document phases utilizing REVIT software platform in level 3

4.1.8 and 4.1.9 Civil Engineering and Landscaping Design: As a component of Basic Services, included in Basic Services Compensation Article 11.1, the Architect and their consultant will provide full services related to the civil

engineering and landscape design requirements of the Project to include site analysis, site grading, site utility design, site hardscaping and soft landscaping elements.

4.1.10 Interior Design: As a component of Basic Services included in Basic Services Compensation Article 11.1 the Architect will provide Interior Design services to include material and color selections, finish details and specifications of all interior finishes.

4.1.12 Detailed Cost Estimating: As a component of Basic Services included in Basic Services Compensation Article 11.1 the Architect will provide Detailed Construction Cost Estimating Services to include the following:

- .1 Schematic Design
- .2 Design Development
- .3 Eighty-five percent (85%) Complete Construction Documents

4.1.21 Telecommunications/data design: As a component of Basic Services included in Basic Services Compensation Article 11.1 the Architect shall include all related telecommunications and data design consistent with a County Courthouse Project of this scope and the requirements identified in the Programming Phase.

4.1.22 Security Evaluation and Planning: As a component of Basic Services included in Basic Services Compensation Article 11.1 the Architect shall include all related physical and electronic security design consistent with a County Courthouse Project of this scope and the requirements identified in the Programming Phase.

4.1.24 Extensive Sustainable Design Services: As a component of Basic Design Services included in Basic Services Compensation Article 11.1, the Architect shall provide extensive sustainable design services to include the following:

- .1 Sustainable design programming and identification of the Owner's sustainable design goals.
- .2 Where consistent with the Owner's sustainable design goals, the Architect shall develop sustainable design strategies including identification of on-site energy resources, site utilization, building orientation and configuration, building envelope construction, HVAC systems, electrical power and lighting systems and plumbing systems.
- .3 Evaluation and implementation of selected strategies, building systems, and system's manufacturers to address Owner's sustainable design goals.

4.1.28 Additional Construction Administration Services: The Architect shall provide part-time, on-site representation during the construction phase of each GMP – Construction Package according to the schedule indicated in Article 11.2. The Additional Construction Administration Services will include additional staff and man hours to support the Construction Manager's schedule, attend pre-installation meetings, review construction phase mock-ups, respond to Request for Information (RFIs) and other construction related inquiries. The Architect will provide the Additional Construction Administration Services consistent with the provisions of Article 3.6.2.

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or bid packages in addition to those listed in Section 1.1.6;
- .2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work, Guaranteed Maximum Price proposal, or Control Estimate exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes, or equipment;

- .3 Services necessitated by the Owner's request for extensive sustainable design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .4 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations, or official interpretations;
- .5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .6 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
- .8 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .9 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .10 Evaluation of the qualifications of bidders or persons providing proposals;
- .11 Consultation concerning replacement of Work resulting from fire or other cause during construction;
- .12 Assistance to the Initial Decision Maker, if other than the Architect;
- .13 Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as constructor project delivery method to an alternative project delivery method;
- .14 Services necessitated by the Owner's delay in engaging the Construction Manager; and
- .15 Making revisions in Drawings, Specifications, and other documents resulting from substitutions included in the agreed to assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Construction Manager's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Construction Manager's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Construction Manager from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Construction Manager-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders, and Construction Change Directives that require evaluation of the Construction Manager's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Construction Manager and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier.

§ 4.3.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Three (3) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager
- .2 Forty-four (44) visits to the site by the Architect over the duration of the Project during construction
- .3 Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two (2) inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within sixty-five (65) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

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ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall retain a Construction Manager to provide services, duties, and responsibilities as described in the agreement selected in Section 1.1.5.

§ 5.3 The Owner shall furnish the services of a Construction Manager that shall be responsible for creating the overall Project schedule. The Owner shall adjust the Project schedule, if necessary, as the Project proceeds.

§ 5.4 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall furnish the services of a Construction Manager that shall be responsible for preparing all estimates of the Cost of the Work. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

§ 5.4.1 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks include the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Construction Manager to remove and replace previously installed Work. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

§ 5.5 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.6 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.7 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance and other liability insurance as appropriate to the services provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect and Construction Manager if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall contemporaneously provide the Architect with any communications provided to the Construction Manager about matters arising out of or relating to the Contract Documents. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Construction Manager, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Construction Manager to provide the Architect access to the Work wherever it is in preparation or progress.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the Construction Managers' general conditions costs, overhead, and profit. The Cost of the Work does not include the compensation of the Architect, the compensation of the Construction Manager for Preconstruction Phase services, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in the Initial Information, and may be adjusted throughout the Project as required under Sections 5.4 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

§ 6.3 The Owner shall require the Construction Manager to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Construction Manager prepares as the Architect progresses with its Basic Services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Construction Manager's inaccuracies or incompleteness in preparing cost estimates. The Architect may review the Construction Manager's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

§ 6.3.1 If the Architect is providing detailed cost estimating services as an Additional Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Architect shall work cooperatively with the Construction Manager to conform the cost estimates to one another.

§ 6.3.2 Subject to Section 4.3, if the Owner engages a Cost Consultant and a discrepancy exists between the Construction Manager's estimate and the Cost Consultant's estimate, the Architect shall assist the Cost Consultant and Construction Manager as necessary to conform the estimates to one another.

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.5 If the Construction Manager's estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;

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- .2 in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .3 implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section 6.5.2, the Architect, without additional compensation, shall incorporate the required modifications in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility as a Basic Service under this Article 6.

§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by the Construction Manager's subsequent cost estimates, the Guaranteed Maximum Price proposal, or Control Estimate that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Construction Manager, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in

any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect's duty to indemnify the Owner under this provision shall be limited to the available proceeds of insurance coverage.

§ 8.1.4 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date

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of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction, except as modified in this Agreement. The term "Contractor" as used in A201-2007 shall mean the Construction Manager.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

BASIC SCHEMATIC DESIGN, DESIGN DEVELOPOMENT AND CONSTRUCTION DOCUMENTS

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The Compensation for Basic Services for the design phases indicated above and as defined in Articles 3.1, 3.2, 3.3, 3.4 and 3.5 shall be 5.75% of the Cost of the Work as defined by Article 6.1, and as calculated by the Construction Manager's Guaranteed Maximum Price (GMP) Construction Packages 1 and 2; and inclusive of all design and bid contingencies, and according to the following compensation schedule: The following services will be invoiced on a monthly basis in accordance with the proportion of completion of each respective phase.

Schematic Design Phase	Thirty	percent (30	%)
Design Development Phase	Thirty	percent (30	%)
Construction Documents Phase	Forty	percent (40	%)

BASIC CONSTRUCTION PHASE SERVICES:

The Compensation for Basic Services for the design indicated above and defined in Article 3.6 shall be 1.25% of the Cost of the Work as defined by Article 6.1, and as calculated by the Construction Manager's Guaranteed Maximum Price (GMP) inclusive of all design and bid contingencies, and according to the compensation schedule indicated in Article 11.5. The services will be invoiced on a monthly basis.

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:

COMMISSIONING:

As indicated in Article 4.1.23 the Architect will provide Building Systems Commissioning as an Additional Service. The final Scope of Services shall be further defined during the construction phase of GMP 1- Construction Package 1 and GMP 2 – Construction Package 2 as defined in AIA B211 and shall be compensated on an hourly basis according to Standard Hourly Rates applicable at the time of services.

FURNITURE FURNISHINGS AND EQUIPMENT:

As indicated in Article 4.1.27 the Architect will provide FF and E Design as an Additional Service. The Compensation for Furniture Furnishing and Equipment as defined in AIAB253 shall be 8% of the cost of the new Furniture, Furnishings and Equipment as determined by the agreement between the Owner and the FF and E Contractor(s) and according to the compensation schedule in AIA B253 Article 5.4;

ADDITIONAL CONSTRUCTION ADMINISTRATION SERVICES: As indicated in Article 4.1.28 the Architect will provide Additional Construction Administration Services. The Owner shall compensate the Architect according to the following schedule and shall be invoiced on a monthly basis in addition to the invoicing for Basic Construction Administration Services included in Article 3.6. The proposed schedule is subject to alignment with the Construction Manager's actual percentage of completion as indicated in the Construction Manager's actual construction schedule.

GMP 1

33% through 50% construction complete: 40 Additional Hrs. @ \$6,000 per month x (5) five months = \$30,000
 50% through 75% construction complete: 120 Additional Hrs. @ \$18,000 per month x (9) nine months = \$162,000
 75% through substantial completion: 240 Additional Hrs. @ \$36,000 per month x (5) five months = \$180,000

GMP 2

33% through 50% construction complete: 40 Additional Hrs. @ \$6,000 per month x (1) one month = \$6,000
 50% through 75% construction complete: 120 Additional Hrs. @ \$18,000 per month x (3) three months = \$54,000
 75% through substantial completion: 240 Additional Hrs. @ \$36,000 per month x (1) one months = \$36,000

FEDERAL ENERGY 179D TAX CREDITS

The Owner agrees to cede any and all Federal Energy 179D Tax Credits as the result of the Architect's design efforts and according to the provisions of the Code.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

(Paragraphs deleted)

The compensation shall be negotiated upon the occurrence of the required service.

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus fifteen percent (15 %), or as otherwise stated below:

(Paragraph deleted)

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as indicated in Article 11.1.

(Paragraph deleted)

(Table deleted)

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the Owner-accepted Guaranteed Maximum Price Amendment or Control Estimate, as applicable, or (2) if the Guaranteed Maximum Price proposal or Control Estimate has not been accepted by the Owner, the most recent estimate of the Cost of the Work prepared by the Construction Manager for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

(Paragraphs deleted) See Exhibit B

(Table deleted)

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's consultants' expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Fifteen percent (15 %) of the expenses incurred.

§ 11.8.3 If the insurance requirements listed in Section 2.6 exceed the types and limits the Architect normally maintains and the Architect incurred additional costs to satisfy such requirements, the Owner shall reimburse the Architect for such costs as set forth below:

Cost plus fifteen percent (15%)

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§ 11.9 Compensation for Use of Architect's Instruments of Service

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

One Hundred Thousand Dollars

§ 11.10 Payments to the Architect

§ 11.10.1 An initial payment of zero (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid forty-five (45) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of monthly or annual interest agreed upon.)

%

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

N/A

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B133™-2014, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition
- .2 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or the following:

(Paragraph deleted)

- .3 Other documents:

Exhibit A: Test Fit Floor Plans and Exterior Massing Images
 Exhibit B: Standard Hourly Rates
 Certificate of Professional Liability Insurance
 Certificate of Insurance (General Liability, Automobile Liability, and Worker's Compensation)
 AIA Document B211-2007 Standard Form of Architect's Services: Commissioning
 AIA Document B253-2007 Standard Form of Architect's Services: Furniture, Furnishings and Equipment Design

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

ARCHITECT (Signature)

Thomas M. Potts, AIA, President, Silling Associates,
Inc.

(Printed name and title)

(Printed name and title)

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Additions and Deletions Report for AIA® Document B133™ – 2014

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:37:31 ET on 01/08/2019.

PAGE 1

(In words, indicate day, month and year.)

...

~~(Name, legal status, address and other information)~~Cabarrus County Commission
PO Box 707
Concord, NC 28026-0707
Telephone Number: 704.305.9723

...

~~(Name, legal status, address and other information)~~Silling Associates, Inc.
405 Capitol Street, Upper Atrium
Charleston, WV 25301
Telephone Number: 304.346.0565
Fax Number: 304.346.1522

...

~~(Name, location and detailed description)~~
Cabarrus County Courthouse
Concord, NC
New Courthouse and Existing Courthouse Renovation

...

~~(Name, legal status, address and other information)~~
Messer Construction Co.
4201 Stuart Andrew Boulevard
Suite B
Charlotte, NC 28217-1528
Telephone Number: 704.679.6000

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(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution," or "to be determined later by mutual agreement.")

§ 1.1.1 The Owner's program for the Project:

(Identify documentation or state the manner in which the program will be developed.)

Project to include site utilization, building form, massing and orientation, current and proposed future courtroom space planning requirements, current and future departmental space planning requirements, secure circulation and building zoning, space planning utilization of the existing Cabarrus County Courthouse, building systems general requirements, and project phasing is represented in the Test Fit Study developed during the Cabarrus County Courthouse Facility Programming Phase and indicated in exhibit X included in this agreement. The additional detailed programming requirements will be developed as a component of the design phases included in the Basic Services of this agreement.

...

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

The Courthouse Project includes approximately 245,000 gross square feet new construction and renovation of approximately 73,000 gross square feet of the existing Cabarrus County Courthouse. The new courthouse is to be constructed in the current county-owned, surface parking lot (as illustrated in the boundary and topographic site survey provided by the County) extending northeast of the existing facility to Church Street, and extending from Corban Avenue on the southeast into and occupying Means Avenue to the northwest as indicated in the Test Fit study developed during the Cabarrus County Courthouse Facility Programming Phase.

...

(Provide total and, if known, a line item breakdown.) 1. Construction Package 1 (GMP 1) Site Development and New Courthouse Construction Cost \$85,000,000

2. Construction Package 2 (GMP 2) Existing Courthouse Renovations Construction Cost \$15,000,000

§ 1.1.4 The Owner's anticipated design and construction schedule: schedule assumes the Project is to be developed with the following construction contracts and design phasing in order to facilitate continued operation of the existing courthouse and enable project funding:

GMP 1- Guaranteed Maximum Price – Construction Package 1: Site Development and New Courthouse Construction

GMP 2- Guaranteed Maximum Price – Construction Package 2 - Existing Courthouse Renovations

The Architect shall develop the design and construction documents of both of the GMP Construction Packages 1 and 2 through 85% design completion (target milestone date: February 28, 2020) for the Owner approval of the Total Construction Cost and related Total Estimated Project Budget. Upon completion of the 85% Construction Documents and occurring concurrently with the CMR's pricing and Owner approval phase, the Architect shall proceed to the development of 100% design completion of the Construction Package 1 Construction Documents (target milestone May 31, 2020) for permitting and construction commencement on August 3, 2020.

Nearing the 75% construction completion of Construction Package 1 (targeted milestone April 30, 2022) the Architect shall proceed to the 100% design completion of the Construction Package 2 Construction Documents (target milestone June 30, 2022) for permitting and construction commencement on December 1, 2022.

.1 Design phase milestone dates, if any: dates:
SCHEMATIC DESIGN (30% of Total Design Effort)

<u>Programming Finalization and Schematic Design Commencement</u>	<u>March 1, 2019</u>
<u>Schematic Design Completion</u>	<u>July 1, 2019</u>
<u>Schematic Design Public Review and Comment Period</u>	<u>July 1, 2019 – August 30, 2019</u>
<u>Schematic Design Phase Estimating and Reconciliation</u>	<u>August 30, 2019</u>
<u>Cabarrus County Design Approval</u>	<u>September 16, 2019</u>

DESIGN DEVELOPMENT (30% of Total Design Effort)

<u>Design Development Commencement</u>	<u>July 2, 2019</u>
--	---------------------

Design Development Phase Estimating and Reconciliation	December 31, 2019
Cabarrus County Design Approval	January 20, 2020

CONSTRUCTION DOCUMENTS (40% of Total Design Effort)

Construction Document Phase Commencement	July 2, 2019
85% Design Completion Construction Packages 1 and 2	February 28, 2020
Constr. Package 1 (GMP 1) Pricing and Constr. Package 2 Estimating and Recon.	April 30, 2020
100% Design Completion Construction Package 1	May 31, 2020
Cabarrus County Design Approval	May 31, 2020
100% Design Completion Construction Package 2	June 30, 2022
Constr. Package 2 (GMP 2) Pricing Reconciliation	August 31, 2022
Cabarrus County Design Approval	September 30, 2022

.2 Commencement of construction: The following is subject to verification with the Construction Manager and any necessary adjustments to the above design schedule and actual construction timelines of Construction Package 1

Construction Package 1 - Site Development and New Courthouse Construction:	August 3, 2020
Construction Package 2 - Existing Courthouse Renovation:	December 1, 2022

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Construction Package 1 - Site Development and New Courthouse Construction:	August 31, 2022
Construction Package 2 - Existing Courthouse Renovation:	November 30, 2023

.4-Other:

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(Indicate agreement type.)

AIA Document A133-2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

...

(List number and type of bid/procurement packages.)

See Article 1.1.4 for a description of the Owner's requirement for the Construction Manager's bid packages.

...

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere, such as the Owner's sustainable objective, if any, or historic preservation requirements.)

(List name, address and other information.) Mr. Kyle Bilafer, Area Manager of Operations
 Cabarrus County NC
 PO Box 707
 Concord NC 28026-0707

...

(List name, address and other information.)

N/A

...

(List name, legal status, address and other information.)

...

(The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention. If the Architect is to assist the Owner in selecting the Construction Manager, complete Section 4.1.1.)

Messer Construction Company

...

(If a Cost Consultant is retained, appropriate references to the Cost Consultant should be inserted in Sections 3.3.6, 3.3.7, 3.4.2, 3.4.3, 3.5.4, 3.5.5, 5.4, 6.3, 6.3.1, 6.4 and 11.6.)

The Owner's Cost Consulting is to be provided by the Construction Manager

...

CESI
45 Spring Street SW
Concord, NC
28025

...

CESI
45 Spring Street SW
Concord, NC
28025

.5 Civil Engineer:

.6 Other consultants:

(List any other consultants retained by the Owner, such as a Project or Program Manager, or scheduling consultant.) Third-Party Construction Phase Testing to be determined.

§ 1.1.11 The Architect identifies the following ~~representative in accordance with Section 2.4:~~ representatives in accordance with Section 2.4:

Mr. Tom Potts, AIA, Silling Architects, Principal-in Charge

Mr. Jody Driggs, AIA, Vice President, Silling Architects, Associate Principal-in-Charge

Mr. Jeremy Jones, AIA Project Manager, Silling Architects

~~(List name, address and other information.)~~Mr. Fred Pack, Assoc. AIA, Construction Administration Manager

Silling Associates, Inc.

405 Capitol Street, Upper Atrium

Charleston, WV 25301

Telephone Number: 304.346.0565

Fax Number: 304.346.1522

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(List name, legal status, address and other information.)

...

Lynch Mykins

415 Hillsborough Street

Suite 101

Raleigh, NC 27603

Telephone Number: 919-782-1833

...

Scheeser Buckley Mayfield

1540 Corporate Woods Parkway

Uniontown, OH 44685

Telephone Number: 330.526.2600

...

Scheeser Buckley Mayfield

1540 Corporate Woods Parkway

Uniontown, OH 44685

Telephone Number: 330.526.2600.4 Civil Engineer and Landscape Design:

Kimley Horn

200 South Tryon Street Suite 200

Charlotte, NC 28202

Telephone Number: 704.333.5131

.5 Telecommunications/Data Design

Scheeser Buckley Mayfield

1540 Corporate Woods Parkway

Uniontown, OH 44685

Telephone Number: 330.526.2600

§ 1.1.12.2 Consultants retained under Additional Services:

N/A
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§ 2.4 The Architect shall identify ~~a representative~~ representatives authorized to act on behalf of the Architect with respect to the Project.

...

§ 2.6.1 Commercial General Liability with policy limits of not less than One Million Dollars (\$ 1,000,000) for each occurrence and Two Million Dollars (\$ 2,000,000) in the aggregate for bodily injury and property damage.

§ 2.6.2 Automobile Liability covering vehicles owned by the Architect and non-owned vehicles used by the Architect with policy limits of not less than ~~(\$) per claim and (\$)~~ One Million Dollars (\$ 1,000,000) per claim and Two Million Dollars (\$ 2,000,000) in the aggregate for bodily injury and property damage along with any other statutorily required automobile coverage.

...

§ 2.6.4 Workers' Compensation at statutory limits and Employers Liability with policy limits of not less than ~~(\$)~~ One Million (\$ 1,000,000).

§ 2.6.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than ~~(\$) per claim and (\$)~~ Five Million (\$ 5 Million) per claim and Five Million (\$ 5 Million) in the aggregate.

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§ 3.2.2 During ~~one of the design phases, the Owner will receive a Guaranteed Maximum Price proposal or Control Estimate, as appropriate,~~ the Construction Document phase, the Owner will receive Guaranteed Maximum Price proposals

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§ 3.3.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval and the Construction Manager's ~~review~~ review and Schematic Design Cost estimate

Deliverables: The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing, the following drawings, written narratives and specifications.

1. Site Plan and Site Sections
2. 1/8" = 1'-0" Building Demolition Floor Plans
3. 1/8" = 1'-0" Architectural Building Floor Plans
4. 1/8" = 1'-0" Security Floor Plans
5. 1/4" = 1'-0" Courtroom Floor Plans and Preliminary Audio-Visual Design
6. Three-Dimensional Digital Courtroom Site-Line Study Perspective Images
7. 1/8" = 1'-0" Architectural Building Elevations
8. 1/8" = 1'-0" Architectural Building Sections
9. Three-Dimensional Digital Building Study Model Perspective Images
10. Photorealistic Presentation Quality Perspective Images
11. Courtroom Mockup Construction Documents and Specifications
12. Preliminary Building, Structural, Mechanical and Electrical one-line design drawings and Systems Narratives

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§ 3.4.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work pursuant to Section 5.4, the Architect shall prepare Design Development Documents for the Owner's approval and Construction Manager's review. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including

Deliverables: The Design Development Documents shall consist of drawings and outline specifications of the following building systems consistent with a Courthouse Project of the scale and quality outlined in Article 1.1.2.

1. Site Civil Engineering Design
2. Architectural Design
3. Structural Design
4. HVAC Design
5. Electrical Power
6. Lighting Design
7. Fire Alarm and Communication Design
8. Fire Protection Systems

The Design drawings and other documents shall include plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

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§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the The services listed in the matrix below indicate services to be included in the Project as either Basic Services or Additional Services as designated in the "Responsibility" column. Basic Services are included in basic Services Compensation, Article 11.1. The Owner shall compensate the Architect as provided in Section 11.2.

...

§ 4.1.1 Assistance with selection of the Construction Manager	<u>Provided by Architect in Preliminary Agreement</u>	
§ 4.1.2 Programming (B202™-2009)	<u>Provided by Architect in Preliminary Agreement</u>	
§ 4.1.3 Multiple preliminary designs	<u>Provided by Architect in Preliminary</u>	
§ 4.1.4 Measured drawings	<u>Not Provided</u>	
§ 4.1.5 Existing facilities surveys	<u>Not Provided</u>	
§ 4.1.6 Site evaluation and planning (B203™-2007)	<u>Not Provided</u>	
§ 4.1.7 Building information modeling (E203™-2013)	<u>Architect Basic Service</u>	<u>Article 4.2</u>
§ 4.1.8 Civil engineering	<u>Architect Basic Services</u>	<u>Article 4.2</u>
§ 4.1.9 Landscape design	<u>Architect Basic Services</u>	<u>Article 4.2</u>
§ 4.1.10 Architectural interior design (B252™-2007)	<u>Architect Basic Services</u>	<u>Article 4.2</u>

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User Notes:

(1347713615)

§ 4.1.11 Value analysis (B204™–2007)	Not Provided	
§ 4.1.12 Detailed cost estimating	Architect Basic Services	Article 4.2
§ 4.1.13 On-site project representation (B207™–2008)	Not Provided	
§ 4.1.14 Conformed construction documents	Not Provided	
§ 4.1.15 As-designed record drawings	Architect Basic Services	Article 4.2
§ 4.1.16 As-constructed record drawings	Architect Basic Services	Article 4.2
§ 4.1.17 Post occupancy evaluation	Not Provided	
§ 4.1.18 Facility support services (B210™–2007)	Not Provided	
§ 4.1.19 Tenant-related services	Not Provided	
§ 4.1.20 Coordination of Owner’s consultants	Not Provided	
§ 4.1.21 Telecommunications/data design	Architect Basic Services	Article 4.2
§ 4.1.22 Security evaluation and planning (B206™–2007)	Architect Basic Services	Article 4.2
§ 4.1.23 Commissioning (B211™–2007)	Architect Additional Services	AIA B211
§ 4.1.24 Extensive environmentally responsible design	Architect Basic Services	Article 4.2
§ 4.1.25 LEED® certification (B214™–2012)	Not Provided	
§ 4.1.26 Historic preservation (B205™–2007)	Not Provided	
§ 4.1.27 Furniture, furnishings, and equipment design (B253™–2007)	Architect Additional Service	AIA B253
4.1.28 Extensive Construction Administration Services	Architect Additional Service	Article 4.2

§ 4.2 Insert a description of each ~~Additional~~ Service designated in Section 4.1 as the Architect’s responsibility, if not further described in an exhibit attached to this document.

4.1.7 Building Information Modeling: As a component of Basic Services, included in Basic Services Compensation Article 11.1, the Architect will develop the design in the Design Development and Construction Document phases utilizing REVIT software platform in level 3

4.1.8 and 4.1.9 Civil Engineering and Landscaping Design: As a component of Basic Services, included in Basic Services Compensation Article 11.1, the Architect and their consultant will provide full services related to the civil engineering and landscape design requirements of the Project to include site analysis, site grading, site utility design, site hardscaping and soft landscaping elements.

4.1.10 Interior Design: As a component of Basic Services included in Basic Services Compensation Article 11.1 the Architect will provide Interior Design services to include material and color selections, finish details and specifications of all interior finishes.

4.1.12 Detailed Cost Estimating: As a component of Basic Services included in Basic Services Compensation Article 11.1 the Architect will provide Detailed Construction Cost Estimating Services to include the following:

- .1 Schematic Design
- .2 Design Development
- .3 Eighty-five percent (85%) Complete Construction Documents

4.1.21 Telecommunications/data design: As a component of Basic Services included in Basic Services Compensation Article 11.1 the Architect shall include all related telecommunications and data design consistent with a County Courthouse Project of this scope and the requirements identified in the Programming Phase.

4.1.22 Security Evaluation and Planning: As a component of Basic Services included in Basic Services Compensation Article 11.1 the Architect shall include all related physical and electronic security design consistent with a County Courthouse Project of this scope and the requirements identified in the Programming Phase.

4.1.24 Extensive Sustainable Design Services: As a component of Basic Design Services included in Basic Services Compensation Article 11.1, the Architect shall provide extensive sustainable design services to include the following:

- .1 Sustainable design programming and identification of the Owner’s sustainable design goals.
- .2 Where consistent with the Owner’s sustainable design goals, the Architect shall develop sustainable design strategies including identification of on-site energy resources, site utilization, building orientation and configuration, building envelope construction, HVAC systems, electrical power and lighting systems and plumbing systems.
- .3 Evaluation and implementation of selected strategies, building systems, and system’s manufacturers to address Owner’s sustainable design goals.

4.1.28 Additional Construction Administration Services: The Architect shall provide part-time, on-site representation during the construction phase of each GMP – Construction Package according to the schedule indicated in Article 11.2. The Additional Construction Administration Services will include additional staff and man hours to support the Construction Manager’s schedule, attend pre-installation meetings, review construction phase mock-ups, respond to Request for Information (RFIs) and other construction related inquiries. The Architect will provide the Additional Construction Administration Services consistent with the provisions of Article 3.6.2.

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- .1 (~~Three~~ (3) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager
 - .2 (~~Forty-four~~ (44) visits to the site by the Architect over the duration of the Project during construction
 - .3 Two (2) inspections for any portion of the Work to determine whether such portion of the Work is
- | | | | | |
|------------------------------|--------|-----------|----|----|
| Schematic Design Phase | Thirty | percent (| 30 | %) |
| Design Development Phase | Thirty | percent (| 30 | %) |
| Construction Documents Phase | Forty | percent (| 40 | %) |
- substantially complete in accordance with the requirements of the Contract Documents
- .4 Two (2) inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within (~~sixty-five~~ (65) months of the date of this Agreement, through no fault of the Architect, extension of the Architect’s services beyond that time shall be compensated as Additional Services.

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(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

[X] Arbitration pursuant to Section 8.3 of this Agreement

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(Insert amount of, or basis for, compensation.)BASIC SCHEMATIC DESIGN, DESIGN DEVELOPMENT AND CONSTRUCTION DOCUMENTS

The Compensation for Basic Services for the design phases indicated above and as defined in Articles 3.1, 3.2, 3.3, 3.4 and 3.5 the shall be 5.75% of the Cost of the Work as defined by Article 6.1, and as calculated by the Construction Manager’s Guaranteed Maximum Price (GMP) Construction Packages 1 and 2; and inclusive of all design and bid contingencies, and according to the following compensation schedule: The following services will be invoiced on a monthly basis in accordance with the proportion of completion of each respective phase.

BASIC CONSTRUCTION PHASE SERVICES:

The Compensation for Basic Services for the design indicated above and defined in Article 3.6 shall be 1.25% of the Cost of the Work as defined by Article 6.1, and as calculated by the Construction Manager’s Guaranteed Maximum

Price (GMP) inclusive of all design and bid contingencies, and according to the compensation schedule indicated in Article 11.5. The services will be invoiced on a monthly basis.

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(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

COMMISSIONING:

As indicated in Article 4.1.23 the Architect will provide Building Systems Commissioning as an Additional Service. The final Scope of Services shall be further defined during the construction phase of GMP 1- Construction Package 1 and GMP 2 – Construction Package 2 as defined in AIA B211 and shall be compensated on an hourly basis according to Standard Hourly Rates applicable at the time of services.

FURNITURE FURNISHINGS AND EQUIPMENT:

As indicated in Article 4.1.27 the Architect will provide FF and E Design as an Additional Service. The Compensation for Furniture Furnishing and Equipment as defined in AIA B253 shall be 8% of the cost of the new Furniture, Furnishings and Equipment as determined by the agreement between the Owner and the FF and E Contractor(s) and according to the compensation schedule in AIA B253 Article 5.4;

ADDITIONAL CONSTRUCTION ADMINISTRATION SERVICES: As indicated in Article 4.1.28 the Architect will provide Additional Construction Administration Services. The Owner shall compensate the Architect according to the following schedule and shall be invoiced on a monthly basis in addition to the invoicing for Basic Construction Administration Services included in Article 3.6. The proposed schedule is subject to alignment with the Construction Manager's actual percentage of completion as indicated in the Construction Manager's actual construction schedule.

GMP 1

33% through 50% construction complete: 40 Additional Hrs. @ \$6,000 per month x (5) five months = \$30,000
50% through 75% construction complete: 120 Additional Hrs. @ \$18,000 per month x (9) nine months = \$162,000
75% through substantial completion: 240 Additional Hrs. @ \$36,000 per month x (5) five months = \$180,000

GMP 2

33% through 50% construction complete: 40 Additional Hrs. @ \$6,000 per month x (1) one month = \$6,000
50% through 75% construction complete: 120 Additional Hrs. @ \$18,000 per month x (3) three months = \$54,000
75% through substantial completion: 240 Additional Hrs. @ \$36,000 per month x (1) one months = \$36,000

FEDERAL ENERGY 179D TAX CREDITS

The Owner agrees to cede any and all Federal Energy 179D Tax Credits as the result of the Architect's design efforts and according to the provisions of the Code.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

The compensation shall be negotiated upon the occurrence of the required service.

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent (~~—~~ fifteen percent (15 %), or as otherwise stated below:

~~§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:~~

~~§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as indicated in Article 11.1.~~

Schematic Design Phase	percent (%)
Design Development Phase	percent (%)
Construction Documents Phase	percent (%)
Construction Phase	percent (%)
Total Basic Compensation	one hundred percent (100 %)

The Owner acknowledges that with an accelerated Project delivery, multiple bid package process, or Construction Manager as constructor project delivery method, the Architect may be providing its services in multiple Phases simultaneously. Therefore, the Architect shall be permitted to invoice monthly in proportion to services performed in each Phase of Services as appropriate.

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(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See Exhibit B

Employee or Category	Rate (\$0.00)
----------------------	---------------

...

.1 Transportation and authorized out-of-town travel and subsistence;

...

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ~~percent (~~ Fifteen percent (15 %) of the expenses incurred.

...

Cost plus fifteen percent (15%)

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One Hundred Thousand Dollars

...

§ 11.10.1 An initial payment of zero (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid forty-five (45) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

...

N/A

...

~~.3~~ Other documents: ~~.3~~ Other documents:

Exhibit A: Test Fit Floor Plans and Exterior Massing ImagesExhibit B: Standard Hourly Rates
(~~List other documents, if any, including additional scopes of service forming part of the Agreement.~~)Certificate of Professional Liability Insurance
Certificate of Insurance (General Liability, Automobile Liability, and Worker's Compensation)
AIA Document B211-2007 Standard Form of Architect's Services: Commissioning
AIA Document B253-2007 Standard Form of Architect's Services: Furniture, Furnishings and Equipment Design

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Thomas M. Potts, AIA, President, Silling Associates, Inc.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:37:31 ET on 01/08/2019 under Order No. 1490597384 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B133™ – 2014, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

AIA[®] Document B211[™] – 2007

Standard Form of Architect's Services: Commissioning

for the following **PROJECT:**

(Name and location or address)

Cabarrus County Courthouse
Concord, NC

THE OWNER:

(Name, legal status and address)

Cabarrus County Commission
PO Box 707

Concord, NC 28026-0707

THE ARCHITECT:

(Name, legal status and address)

Silling Associates, Inc.
405 Capitol Street, Upper Atrium

Charleston, WV 25301

THE AGREEMENT

This Standard Form of Architect's Services is part of or modifies the accompanying Owner-Architect Agreement (hereinafter, the Agreement) dated the ____ day of ____ in the year ____.

(In words, indicate day, month and year.)

TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 COMMISSIONING SERVICES
- 3 ADDITIONAL SERVICES
- 4 OWNER'S RESPONSIBILITIES
- 5 COMPENSATION
- 6 SPECIAL TERMS AND CONDITIONS

ARTICLE 1 INITIAL INFORMATION

The Architect's performance of the services set forth in this document is based upon the following information. Material changes to this information may entitle the Architect to Additional Services.

(Paragraph deleted)

performed

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document provides the Architect's scope of services only and must be used with an owner-architect agreement. It may be used with G802[™]-2007, Amendment to the Professional Services Agreement, to create a modification to any owner-architect agreement.

This document is included as an Additional Services Exhibit to the AIA B133-2007. The Project shall include Commissioning Services for each Design/GMP package to be included in the Courthouse Project defined in the AIA B133.

ARTICLE 2 COMMISSIONING SERVICES

§ 2.1 The Architect shall consult with the Owner, research applicable criteria, attend Project meetings, communicate with members of the Project team, and issue progress reports. The Architect shall coordinate the services provided by the Architect and the Architect's consultants with those services provided by the Owner and the Owner's consultants.

§ 2.2 The Architect shall prepare, and periodically update, a schedule of Commissioning Services that shall identify milestone dates for decisions required of the Owner, services furnished by the Architect, and completion of documentation provided by the Architect. The Architect shall coordinate the Commissioning Services schedule with the Owner's Project schedule.

§ 2.3 The Architect shall make a presentation to explain the Commissioning Services to representatives of the Owner.

§ 2.4 Subject to Section 3.3, the Architect shall assist the Owner by conducting Discovery Sessions.

§ 2.5 The Architect shall submit commissioning documentation to the Owner at intervals appropriate to the process for purposes of evaluation and approval by the Owner. The Architect shall be entitled to rely on approvals received from the Owner to complete the Commissioning Services.

§ 2.6 COMMISSIONING PLAN

The Architect shall prepare a Commissioning Plan based on the systems to be commissioned, program and schedule. The Commissioning Plan will describe the commissioning process for the Project and may contain a description of the objectives of the commissioning, a list of participants and their roles and responsibilities, an outline of the management structure, a description of how the plan is to be implemented, the commissioning schedule, specific details about design reviews, a list of systems and components being commissioned and reporting formats.

§ 2.7 DESIGN INTENT DOCUMENT

§ 2.7.1 The Architect shall prepare a Design Intent Document with information provided by the Owner and the Owner's consultants and contractors. The Design Intent Document will describe the performance criteria for the systems to be commissioned. The performance criteria described in the Design Intent Document shall be quantifiable and measurable through objective testing.

§ 2.7.2 After the Owner's approval of the Design Intent Documents, the Architect shall revise the Design Intent Document to reflect any changes approved by the Owner as an Additional Service.

§ 2.8 DESIGN REVIEW

The Architect shall review the design of the systems to be commissioned for the limited purpose of determining if the systems as designed will achieve the requirements of the Design Intent Document. The Architect's review shall be made with such reasonable promptness as to cause no delay in the activities of the Owner or Owner's consultants, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of the design is not conducted for the purpose of determining the accuracy and completeness of the design documents and other details such as quality of materials, appearance, dimensions, quantities and costs. Upon completion of the review, the Architect shall issue written comments and recommendations.

§ 2.9 COMMISSIONING SPECIFICATIONS

§ 2.9.1 The Architect shall review the Contract Documents and recommend modifications necessary for coordination with the commissioning requirements and processes, which may include equipment submittals, operation and maintenance manuals, system readiness tests, and personnel training.

§ 2.9.2 The Architect shall provide Commissioning Specifications for inclusion in the Contract Documents, which will define the contractor's responsibilities related to commissioning. The Commissioning Specifications will identify systems to be commissioned and may include detailed checklists, test procedures, required test results and warranty requirements.

§ 2.10 SHOP DRAWING AND SUBMITTAL REVIEW

§ 2.10.1 The Architect shall review contractors' submittals, such as Shop Drawings, Product Data and Samples for the systems to be commissioned, for the limited purpose of evaluating the system's ability to achieve the requirements of the Design Intent Document. The Architect's review shall be made with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Owner's consultants or contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the contractor as required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures.

§ 2.10.2 Upon completion of the review, the Architect shall issue written comments for those submittals that deviate from the requirements of the Design Intent Document. The Owner may choose to accept the deviations, in which case the Architect shall revise the Design Intent Document and the related Commissioning Specifications as an Additional Service.

§ 2.11 COMMISSIONING MEETINGS

Subject to Section 3.3, the Architect shall conduct and document commissioning coordination meetings with the Owner, Owner's consultants, contractors and subcontractors, whose systems are included in the Commissioning Specifications. The Architect shall coordinate these meetings with the Project schedule.

§ 2.12 REVIEW OF DOCUMENTATION DURING CONSTRUCTION

During construction the Architect shall review documentation such as meeting minutes, field reports, minor changes in the Work, Construction Change Directives, and Change Orders related to the systems to be commissioned. The Architect shall report to the Owner changes that will prevent the systems from performing as required by the Design Intent Document. The Owner may choose to accept the changes, in which case the Architect shall revise the Design Intent Document and the related Commissioning Specifications as an Additional Service.

§ 2.13 OPERATIONS AND MAINTENANCE MANUAL REVIEW

Prior to the start of operator training, the Architect shall review the operations and maintenance manuals submitted by the contractors for the systems to be commissioned for conformance with the Commissioning Specifications.

§ 2.14 OPERATOR TRAINING

§ 2.14.1 The Architect shall review contractors' planning, scheduling, content and documentation for operator training sessions for conformance with the Commissioning Specifications.

§ 2.14.2 The Architect shall provide operator systems training including the requirements of the Design Intent Document, special design features, operating sequences and limitations, Functional Performance Test procedures, and maintenance cycles of the various systems. This training will begin before the contractor demonstrates the system performance using the Functional Performance Tests. During the commissioning of the systems, the Architect shall provide operator field training by having the operators assist in the verification of the Functional Performance Tests.

§ 2.14.3 The Architect shall observe contractors' training and maintain a training log for inclusion into the Final Commissioning Report. The training log will include the attendees' names, training dates, system or equipment on which training was performed, and the name, title and contact information of the trainer.

§ 2.15 TEST REPORT REVIEW

Before the start of Functional Performance Testing, the Architect shall observe a portion of the system readiness tests and shall review the system readiness test reports required by the Contract Documents for the systems to be commissioned. The Architect shall report to the Owner any observed deficiencies for correction prior to the start of Functional Performance Testing.

§ 2.16 FUNCTIONAL PERFORMANCE TESTING AND DOCUMENTATION

The Architect shall direct, observe and document the Functional Performance Tests for each system to be commissioned. The Functional Performance Tests shall follow the procedures included in the Commissioning

Specifications. The Architect shall submit Functional Performance Test reports for each system to the Owner for review.

§ 2.17 DEFICIENCY CORRECTION

The Architect shall generate a Corrective Action Report for each deficiency identified during Functional Performance Testing. The Architect shall maintain a log of the Corrective Action Reports. Each deficiency shall be resolved by the appropriate contractor and, after correction of the deficiency, the Architect shall direct, observe, and document re-testing to confirm that the deficiency has been corrected as an Additional Service.

§ 2.18 FINAL COMMISSIONING REPORT

The Architect will prepare a Final Commissioning Report including the Commissioning Plan, Design Intent Document, Commissioning Specification, blank Functional Performance Test procedure forms, system readiness tests reports, Functional Performance Test reports, Corrective Action Reports and log, and operator training plans and log.

§ 2.19 POST-OCCUPANCY REVIEW

The Architect shall meet with the Owner prior to one year after the date of Substantial Completion to review the operations and performance of the commissioned systems and to make appropriate recommendations to the Owner.

ARTICLE 3 ADDITIONAL SERVICES-

§ 3.1 To avoid a delay, the Architect shall provide the following Additional Services

(Paragraphs deleted)

and shall notify the Owner with reasonable promptness. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Architect shall have no further obligation to provide those services:

- .1 Review of a contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responses to a contractor's requests for information where such information is available to the contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Evaluation of substitutions proposed by the Owner's consultants or contractors and making subsequent revisions to the Design Intent Document and Commissioning Specifications resulting there from; or
- .4 Commissioning Services provided 60 days after the originally scheduled date for completion of the Commissioning Services in the Commissioning Services schedule.

(Table deleted)

(Paragraphs deleted)

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 The Owner shall identify the systems to be commissioned and furnish a program setting forth the Owner's objectives, schedule, constraints and criteria, system requirements and relationships, special equipment and site requirements.

§ 4.2 The Owner shall provide to the Architect data necessary for the Commissioning Services which may include design drawings, construction documents, record drawings, shop drawings and submittals, operation and maintenance manuals, master plans, operation costs, operation budgets, and pertinent records relative to historical building data, building equipment, furnishings and repairs.

§ 4.3 The Owner shall provide access to the property, buildings, and personnel necessary for the Architect to provide the Commissioning Services. The personnel shall conduct tours and walk-throughs and explain the facility's original, current and anticipated future use.

§ 4.4 The Owner shall furnish the services of design consultants, testing agencies, and contractors necessary to allow the Architect to provide the Commissioning Services.

ARTICLE 5 COMPENSATION

§ 5.1 For the Architect's Commissioning Services described under Article 2, the Owner shall compensate the Architect as follows:

Init.

Hourly rates according to the rates indicated in the AIA B133 Exhibit B

§ 5.2 For Additional Services provided under Section 3.1, the Owner shall compensate the Architect as follows:

(Paragraph deleted)

Hourly rates according to the rates indicated in the AIA B133 Exhibit B

(Paragraphs deleted)

ARTICLE 6 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Standard Form of Architect's Services: Commissioning, if any, are as follows:

N/A

Additions and Deletions Report for AIA® Document B211™ – 2007

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:39:50 ET on 01/08/2019.

PAGE 1

Cabarrus County Courthouse
Concord, NC

...

Cabarrus County Commission
PO Box 707
Concord, NC 28026-0707

...

Silling Associates, Inc.
405 Capitol Street, Upper Atrium

...

Charleston, WV 25301

...

(List below information, including conditions or assumptions, that will affect the Architect's performance.)

performed

This document is included as an Additional Services Exhibit to the AIA B133-2007. The Project shall include Commissioning Services for each Design/GMP package to be included in the Courthouse Project defined in the AIA B133.

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ARTICLE 3 – ADDITIONAL SERVICES

ARTICLE 3 ADDITIONAL SERVICES-

§ 3.1 In addition to the Commissioning Services described above, the To avoid a delay, the Architect shall provide the following Additional Services only if specifically designated below as the Architect's responsibility. The Architect shall perform such Additional Services in accordance with a service description provided in Section 3.2 or attached as an exhibit to this services document.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 3.2, or in an exhibit attached to this services document. If in an exhibit, identify the exhibit.)

and shall notify the Owner with reasonable promptness. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Architect shall have no further obligation to provide those services:

- .1 Review of a contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responses to a contractor's requests for information where such information is available to the contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Evaluation of substitutions proposed by the Owner's consultants or contractors and making subsequent revisions to the Design Intent Document and Commissioning Specifications resulting there from; or
- .4 Commissioning Services provided 60 days after the originally scheduled date for completion of the Commissioning Services in the Commissioning Services schedule.

Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 3.2 below or an exhibit attached to this document and identified below)
§ 3.1.1 Data Collection		
§ 3.1.2 Owner Supplied Data Analysis		
§ 3.1.3 Measurement and Verification Studies		
§ 3.1.4 Existing Facilities Surveys		
§ 3.1.5 Programming (B202™ 2009)		
§ 3.1.6 Identification of Systems to be Commissioned		
§ 3.1.7 Sustainable Design Studies		
§ 3.1.8 LEED® Certification (B214™ 2012)		
§ 3.1.9 Detailed Cost Estimating		
§ 3.1.10 Value Analysis (B204™ 2007)		
§ 3.1.11 Special Bidding or Negotiations		
§ 3.1.12 On-site Project Representation (B207™ 2008)		
§ 3.1.13 Construction Management		
§ 3.1.14 Record Drawings		
§ 3.1.15 Post-occupancy Evaluations		

§ 3.2 Insert a description of each service designated in Section 3.1 the Architect shall provide if not included in an exhibit attached to this document and identified in the table above.

§ 3.3 The Architect shall provide Commissioning Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Commissioning Meetings:
 - .1 () Discovery Sessions
 - .2 () Commissioning Services Presentations
 - .3 () Design Meetings
 - .4 () Pre-bid Meetings
 - .5 () Pre-construction Meetings
 - .6 () Construction Meetings
 - .7 () Warranty Meetings
 - .8 () Post-occupancy Review Meetings
- .2 () reviews of each Shop Drawing, Product Data item, sample or similar submittal of the contractor
- .3 () Training Sessions
- .4 () reviews of readiness test reports submitted by contractors
- .5 () visits to the site by the Architect over the duration of the Project during construction
- .6 () inspections for any portion of the Work to be commissioned to determine whether such portion of the Work is ready for Functional Performance Testing
- .7 () Functional Performance Tests of each system to be commissioned
- .8 () Corrective Action Reports for each system to be commissioned

§ 3.4 To avoid a delay, the Architect shall provide the following Additional Services and shall notify the Owner with reasonable promptness. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Architect shall have no further obligation to provide those services:

- .1 — Review of a contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 — Responses to a contractor's requests for information where such information is available to the contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 — Evaluation of substitutions proposed by the Owner's consultants or contractors and making subsequent revisions to the Design Intent Document and Commissioning Specifications resulting there from; or
- .4 — Commissioning Services provided 60 days after the originally scheduled date for completion of the Commissioning Services in the Commissioning Services schedule.

PAGE 5

(Insert amount of, or basis for, compensation.)

Hourly rates according to the rates indicated in the AIA B133 Exhibit B

...

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Hourly rates according to the rates indicated in the AIA B133 Exhibit B

§ 5.3 For Additional Services that may arise during the course of the Project, including those under Sections 3.3 and 3.4, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

§ 5.4 Compensation for Additional Services of the Architect's consultants when not included in Section 5.2 or 5.3, shall be the amount invoiced to the Architect plus — percent (—%), or as otherwise stated below:

...

N/A

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:39:50 ET on 01/08/2019 under Order No. 1490597384 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B211™ – 2007, Standard Form of Architect's Services: Commissioning, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



AIA® Document B253™ – 2007

Standard Form of Architect's Services: Furniture, Furnishings and Equipment Design

for the following **PROJECT:**
(Name and location or address)

Cabarrus County Courthouse
Concord, NC

THE OWNER:
(Name, legal status and address)

Cabarrus County Commission
PO Box 707
Concord, NC 28026-0707

THE ARCHITECT:
(Name, legal status and address)

Silling Associates, Inc.
405 Capitol Street, Upper Atrium

Charleston, WV 25301

THE AGREEMENT

This Standard Form of Architect's Services is part of or modifies the accompanying Owner-Architect Agreement (hereinafter, the Agreement) dated the day of in the year

(In words, indicate day, month and year.)

TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 FURNITURE, FURNISHINGS AND EQUIPMENT SERVICES
- 3 ADDITIONAL SERVICES
- 4 OWNER'S RESPONSIBILITIES
- 5 COMPENSATION
- 6 SPECIAL TERMS AND CONDITIONS

ARTICLE 1 INITIAL INFORMATION

The Architect's performance of the services set forth in this document is based upon the following information. Material changes to this information may entitle the Architect to Additional Services.

This document is included as an Additional Services Exhibit to the AIA B133-2007. The FF and E design shall consist of two FF and E design packages to align with the two construction packages as defined in the AIA B133 to include the New Courthouse Construction and Existing Courthouse Renovations.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document provides the Architect's scope of services only and must be used with an owner-architect agreement. It may be used with G802™-2007, Amendment to the Professional Services Agreement, to create a modification to any owner-architect agreement.

Init.

The scope of services is anticipated to include the following design/bid packages:

1. New Courthouse Furniture, Furnishings and Equipment
2. New Courthouse and Courtroom Audio Visual
3. Existing Courthouse Renovation Furniture, Furnishings and Equipment

ARTICLE 2 FURNITURE, FURNISHINGS AND EQUIPMENT SERVICES

§ 2.1 The Architect shall consult with the Owner, research applicable criteria, attend Project meetings, communicate with members of the Project team and issue progress reports. The Architect shall coordinate the services provided by the Architect and the Architect's consultants with those services provided by the Owner and the Owner's consultants.

§ 2.2 The Architect shall prepare, and periodically update, a schedule that identifies milestone dates for decisions required by the Owner, services furnished by the Architect and completion of documentation to be provided by the Architect. The Architect shall coordinate the Furniture, Furnishings and Equipment Design Services schedule with the Owner's Project schedule.

§ 2.3 The Architect shall submit documents to the Owner at intervals appropriate to the process for purposes of evaluation and approval by the Owner. The Architect shall be entitled to rely upon approvals received from the Owner to complete the Furniture, Furnishings and Equipment Design Services.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not (1) accept trade discounts, (2) have a significant financial interest, or (3) undertake any activity or employment or accept any contribution if it would reasonably appear that such activity, employment, interest or contribution could compromise the Architect's professional judgment.

§ 2.5 PROGRAMMING PHASE SERVICES

§ 2.5.1 The Architect shall consult with representatives of the Owner to review the applicable requirements of the Project in order to understand the goals and objectives of the Owner with respect to their impact on the Owner's furniture, furnishings and equipment requirements.

§ 2.5.2 The Architect shall assist the Owner in the preparation of a budget for the Work.

§ 2.5.3 The Architect shall gather information furnished by the Owner's designated representatives to aid the Architect in understanding the Owner's furniture, furnishings and equipment requirements.

- .1 The Architect will survey and document the location, size, features and general condition of the located in the Cabarrus County Courthouse. The Architect will make recommendations for the the existing furniture and equipment design in the new and renovated court facilities, or consult the Owner for disposition.

§ 2.5.4 The Architect shall develop personnel space standards based upon an evaluation of the existing conditions at the Owner's facilities, and the functional requirements and standards of the Owner. Personnel space standards shall take into consideration the design and layout of furniture system workstation environments, if applicable. The proposed space standards shall be submitted for the Owner's review and approval.

§ 2.5.5 The Architect shall develop a general understanding of the Owner's equipment requirements, including data, telecommunications, audio visual, and reproduction equipment related to furniture, furnishings and equipment.

§ 2.5.6 The Architect shall prepare a written summary of observations and make recommendations with respect to the FF and E planning of the facility for the Owner's review and approval.

§ 2.6 SCHEMATIC DESIGN PHASE SERVICES

§ 2.6.1 Based on the approved written program, the Architect shall prepare the design concept for the furniture, furnishings and equipment of the Project, indicating the types and quality.

§ 2.6.2 The Architect shall review with the Owner alternative designs and methods for procurement of the furniture, furnishings and equipment.

Init.

§ 2.6.3 The Architect shall assist the Owner in the preparation of a preliminary Project schedule and estimate of the Cost of the Work.

§ 2.7 DESIGN DEVELOPMENT PHASE SERVICES

§ 2.7.1 Based on the approved Schematic Design, the Architect shall obtain product data and prepare illustrations for furniture, furnishings and equipment as may be appropriate for the Project, including specially designed items or elements, to indicate finished appearance and functional operation.

§ 2.7.2 The Architect shall illustrate the design character of the Project. Such illustrations may include drawings, plans, elevations, renderings, photographs, and samples of actual materials, colors and finishes.

§ 2.7.3 The Architect shall assist the Owner in the preparation of adjustments to the preliminary schedule and estimate of the Cost of the Work.

§ 2.8 CONTRACT DOCUMENTS PHASE SERVICES

§ 2.8.1 Based on the approved Design Development drawings and other documents, including schedule and estimate of the Cost of the Work, the Architect shall prepare Drawings, Specifications and other documents required to describe the requirements for the fabrication, procurement, shipment, delivery and installation of furniture, furnishings and equipment for the Project.

§ 2.8.2 The Architect shall assist the Owner in the preparation of the necessary Quotation Documents.

§ 2.9 QUOTATION PHASE SERVICES

§ 2.9.1 The Architect shall assist the Owner in establishing a list of proposed vendors for furniture, furnishings and equipment.

§ 2.9.2 The Architect shall assist the Owner in obtaining quotations for furniture, furnishings and equipment.

§ 2.9.3 The Architect shall prepare written responses to questions from vendors preparing quotations and provide written clarifications and interpretations of the Quotation Documents in the form of addenda.

§ 2.9.4 The Architect shall assist the Owner in the review of quotations including conformance with the design concept expressed in the Contract Documents.

§ 2.9.5 Quotation Documents include the Quotation Requirements and the proposed Contract Documents.

§ 2.9.6 The Architect shall assist the Owner in awarding and preparing agreements with vendors.

§ 2.9.7 If the Owner and Architect agree that the Architect will purchase furniture, furnishings and equipment on behalf of the Owner with funds provided by the Owner, the duties and compensation related to such additional services shall be set forth in a separate agreement.

§ 2.10 FURNITURE, FURNISHINGS AND EQUIPMENT CONTRACT ADMINISTRATION PHASE SERVICES

§ 2.10.1 The Architect shall provide administration of the contracts for furniture, furnishings and equipment only as set forth below and in AIA Document A251™-2007, General Conditions of the Contract for Furniture, Furnishings and Equipment.

§ 2.10.2 The Architect will assist the Owner in coordinating schedules for fabrication, delivery and installation of the Work, but will not be responsible for any failure of a Vendor to meet schedules for completion or to perform its respective duties and responsibilities in conformance with such schedules.

§ 2.10.3 The Architect shall review and approve or take other appropriate action upon a Vendor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 2.10.4 As the buyer of goods, the Owner shall receive, inspect, and accept or reject furniture, furnishings and equipment at the time of their delivery to the premises and installation unless otherwise agreed. The Architect is not authorized to act as the Owner's agent in contractual matters.

§ 2.10.5 The Architect shall review final placement and inspect for damage, quality, assembly and function in order to determine that furniture, furnishings and equipment are in accordance with the requirements of the Contract Documents. The Architect may recommend to the Owner acceptance or rejection of furniture, furnishings and equipment.

§ 2.10.6 The Architect shall visit the Project premises at intervals appropriate to the stage of the Vendor's installation to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. The Architect shall not have control over, charge of, or be responsible for the means, methods, techniques, sequences or procedures of fabrication, shipment, delivery or installation, or for the safety precautions and programs in connection with the Work, as these are solely the Vendor's rights and responsibilities under the Contract Documents.

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Article Deleted

§ 4.2 The Owner shall be responsible for the relocation or removal of existing furniture, furnishings and equipment, and the contents from the facility, unless specifically designated otherwise in Article 6.

§ 4.3 The Owner shall establish and update an overall budget for the Project, including the Cost of the Work, the Owner's other costs and reasonable contingencies related to all of these costs. The Cost of the Work shall be the total cost including applicable taxes or, to the extent the Project is not completed, the estimated cost to the Owner of all elements of the Project designed or specified by the Architect. A reasonable allowance for contingencies shall be included for market conditions at the time of quotations and for changes in the Work. The Cost of the Work does not include the compensation of the Architect and Architect's consultants, the costs of financing or other costs that are the responsibility of the Owner.

ARTICLE 5 COMPENSATION

§ 5.1 For the Architect's Furniture, Furnishings and Equipment Services described under Article 2, the Owner shall compensate the Architect as follows:

Eight percent (8%) of the total cost of the Furniture, Furnishings and Equipment Furniture, Furnishings and Equipment

§ 5.2 For Additional Services provided under Section 3.1, the Owner shall compensate the Architect as follows: N/A
(Paragraphs deleted)

The compensation shall be negotiated upon the occurrence of the required service.

§ 5.3 Compensation for Additional Services of the Architect's consultants when not included in Section 5.2, shall be the amount invoiced to the Architect plus fifteen percent (15 %).

§ 5.4 Where compensation for the Architect's services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Programming Phase	Fifteen Percent	15%
Schematic Design Phase	Fifteen Percent	15%
Design Development Phase	Twenty Percent	20%
Construction Documents Phase	Thirty Percent	30%
Quotation Phase	Ten Percent	10%
FF&E Administration Phase	Ten Percent	10%
Total Compensation	One Hundred Percent	100%

Init.

§ 5.5 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not provided or installed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 5.4 based on (1) the lowest bona fide quotation, or (2) if no such quotation is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed.

ARTICLE 6 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Standard Form of Architect's Services: Furniture, Furnishings & Equipment Design, if any, are as follows:

Init.

Additions and Deletions Report for AIA® Document B253™ – 2007

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:39:03 ET on 01/08/2019.

PAGE 1

Cabarrus County Courthouse
Concord, NC

...

Cabarrus County Commission
PO Box 707
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...

Silling Associates, Inc.
405 Capitol Street, Upper Atrium

...

Charleston, WV 25301

...

~~(List below information, including conditions or assumptions, that will affect the Architect's performance.)~~ This document is included as an Additional Services Exhibit to the AIA B133-2007. The FF and E design shall consist of two FF and E design packages to align with the two construction packages as defined in the AIA B133 to include the New Courthouse Construction and Existing Courthouse Renovations.

The scope of services is anticipated to include the following design/bid packages:

1. New Courthouse Furniture, Furnishings and Equipment
2. New Courthouse and Courtroom Audio Visual
3. Existing Courthouse Renovation Furniture, Furnishings and Equipment

PAGE 2

.1 The Architect will survey and document the location, size, features and general condition of the located in the Cabarrus County Courthouse. The Architect will make recommendations for the the existing furniture and equipment design in the new and renovated court facilities, or consult the Owner for disposition.

...

§ 2.5.5 The Architect shall develop a general understanding of the Owner's equipment requirements, including data, telecommunications, audio visual, and reproduction equipment related to furniture, furnishings and equipment.

§ 2.5.6 The Architect shall prepare a written summary of observations and make recommendations with respect to the FF and E planning of the facility for the Owner's review and approval.

PAGE 4

ARTICLE 3 – ADDITIONAL SERVICES

§ 3.1 In addition to the Furniture, Furnishings and Equipment Design Services described above, the Architect shall provide the following Additional Services only if specifically designated below as the Architect's responsibility. The Architect shall perform such Additional Services in accordance with a service description provided in Section 3.2 or attached as an exhibit to this services document.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 3.2 or in an exhibit attached to this services document. If in an exhibit, identify the exhibit.)

Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 3.2 below or an exhibit attached to this document and identified below)
§ 3.1.1 — Measured Drawings		
§ 3.1.2 — Existing FF&E Inventory		
§ 3.1.3 — Valuations/Appraisals of Existing FF&E		
§ 3.1.4 — Special Studies and Surveys		
§ 3.1.5 — Graphics & Signage Design		
§ 3.1.6 — Art Selection and/or Procurement		
§ 3.1.7 — Special Consultants		
§ 3.1.8 — Studies Related to Future FF&E		
§ 3.1.9 — Detailed Cost Estimates		
§ 3.1.10 — Detailed Quotation Review		
§ 3.1.11 — Receive/Inspect/Accept/Reject Furniture		
§ 3.1.12 — Post-Occupancy Evaluations		
§ 3.1.13 — Operating Cost Analysis		
§ 3.1.14 — Extending Services after Project Completion		
§ 3.1.15 — Reviewing Extensive Number of Claims		
§ 3.1.16 — Vendor Default Services		
§ 3.1.17 — Damage Replacement Consulting		
§ 3.1.18 — Public or Legal Proceedings Activities		
§ 3.1.19 — On-site Project Representation (B207™ 2008)		

§ 3.2 DESCRIPTIONS OF ADDITIONAL SERVICES

(Insert a description of each service in Section 3.1 the Architect shall provide if not further described in an exhibit attached to this document.)

§ 4.1 The Owner shall be responsible for negotiations and obligations of the lease, if any, and shall serve as the contact with the landlord. The Owner shall provide information contained in the lease or landlord correspondence relevant to the Project. ~~Article Deleted~~

...

(Insert amount of, or basis for, compensation.)

Eight percent (8%) of the total cost of the Furniture, Furnishings and Equipment Furniture, Furnishings and Equipment

§ 5.2 For Additional Services provided under Section 3.1, the Owner shall compensate the Architect as follows: N/A
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

The compensation shall be negotiated upon the occurrence of the required service.

§ 5.3 Compensation for Additional Services of the Architect's consultants when not included in Section 5.2, shall be the amount invoiced to the Architect plus percent (~~—~~%), or as otherwise stated below:

fifteen percent (15 %).

§ 5.4 Where compensation for the Architect's services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows: (Insert additional phases as appropriate.)

Programming Phase	percent ()
Schematic Design Phase	percent ()
Design Development Phase	percent ()
Contract Documents Phase	percent ()
Quotation Phase	percent ()
Furniture, Furnishings and Equipment Contract	percent ()
Administration Phase		

Total Compensation	one hundred	percent (100)
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Programming Phase	Fifteen Percent	15%
Schematic Design Phase	Fifteen Percent	15%
Design Development Phase	Twenty Percent	20%
Construction Documents Phase	Thirty Percent	30%
Quotation Phase	Ten Percent	10%
FF&E Administration Phase	Ten Percent	10%
Total Compensation	One Hundred Percent	100%

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:39:03 ET on 01/08/2019 under Order No. 1490597384 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B253™ – 2007, Standard Form of Architect's Services: Furniture, Furnishings and Equipment Design, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

**CABARRUS COUNTY COURTHOUSE PROJECT
AIA B133 OWNER ARCHITECT AGREEMENT
EXHIBIT B - 2019 HOURLY RATES**

Architectural

Principal	\$195/HR
Project Manager	\$175/HR
Project Architect	\$175/HR
Staff Architect	\$155/HR
Architectural Designer	\$135/HR
Interior Designer	\$135/HR
Construction Administrator	\$120/HR
CAD Technician	\$ 95/HR
Administrative	\$ 75/HR

Lynch Mykins Structural Engineers, PC

CEO/President	\$205/hr
Vice President	\$150/hr
Sr. Project Engineer	\$120/hr
BIM Services Director	\$110/hr
Project Engineer	\$100/hr
Structural Engineer	\$90/hr
Sr. Structural BIM Specialist	\$80/hr
Structural Investigator	\$75/hr
Structural BIM Specialist	\$70/hr
Construction Inspector	\$65/hr
Structural BIM Technical	\$55/hr
Clerical	\$45/hr

Scheeser, Buckley, Mayfield-Mechanical, Electrical, Plumbing Engineers

Principal II	\$175/hr
Principal I	\$165/hr
Sr. Associate	\$160/hr
Associate	\$150/hr
Telecommunications Engineer	\$160/hr
Telecommunications Designer III	\$135/hr
Telecommunications Designer II	\$130/hr
Telecommunications Designer I	\$120/hr
Engineer III	\$140/hr
Engineer II	\$130/hr
Engineer I	\$120/hr

**CABARRUS COUNTY COURTHOUSE PROJECT
AIA B133 OWNER ARCHITECT AGREEMENT
EXHIBIT B - 2019 HOURLY RATES**

Engineer Trainee	\$60/hr
Designer III	\$125/hr
Designer II	\$120/hr
Designer I	\$110/hr
Clerical Manager	\$110/hr
Production Technician V	\$120/hr
Production Technician IV	\$110/hr
Production Technician III	\$105/hr
Production Technician II	\$95/hr
Production Technician I	\$85/hr
Office Support II	\$70/hr
Office Support I	\$65/hr

CABARRUS COUNTY



BOARD OF COMMISSIONERS WORK SESSION

**February 4, 2019
4:00 PM**

AGENDA CATEGORY:

Discussion Items for Action

SUBJECT:

BOC - Rules of Procedures

BRIEF SUMMARY:

The Board of Commissioners rules of procedure are the guidelines in which the board conducts itself according to North Carolina General Statute and local law. The current rules have not been updated since 2002 and with general statute updates and technology changes some updates are needed.

REQUESTED ACTION:

Motion to approve the updated rules of procedure.

EXPECTED LENGTH OF PRESENTATION:

1 Minute

SUBMITTED BY:

Lauren Linker, Clerk to the Board

BUDGET AMENDMENT REQUIRED:

No

COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:

ATTACHMENTS:

- ▣ Current Rules of Procedure
- ▣ Proposed Updates to the Rules of Procedure

CABARRUS COUNTY

RULES OF PROCEDURE

FOR THE BOARD

OF COUNTY COMMISSIONERS

(Revised)

**Adopted by the
Cabarrus County Board of Commissioners
September 20, 1999**

Revised January 7, 2003 & November 17, 2003

***Rules of Procedure for the Board
Of County Commissioners
Second Edition, Revised (1994)
Joseph S. Ferrell
Institute of Government
The University of North Carolina at Chapel Hill***

**RULES OF PROCEDURE
FOR THE BOARD
OF COUNTY COMMISSIONERS**

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I. Applicability

Rule 1. Applicability of Rules.

These rules apply to all meetings of the Board of Commissioners of Cabarrus County at which the board is empowered to exercise any of the executive, quasi-judicial, administrative, or legislative powers conferred on it by law.

Comment: On the whole, rules of procedure of a governing board are intended to govern formal meetings of the board where it will exercise any of its executive and legislative powers conferred by law. These rules fulfill that purpose and also are designed to ensure board compliance with the Open Meetings Law, G.S. 143-318.9 through -318.18, which applies to any gathering of a majority of the board to discuss public business. The rules also apply to regular informal work sessions or committee meetings where public business is discussed but no official action taken.

II. Open Meetings

Rule 2. Meetings to be Open

(a) It is the public policy of North Carolina and of Cabarrus County that the hearings, deliberations, and actions of this board and its committees be conducted openly.

(b) Except as otherwise provided in these rules and in accordance with applicable law, each official meeting of the Cabarrus County Board of Commissioners shall be open to the public, and any person is entitled to attend such a meeting.

Comment: See G. S. 143-318.10(a).

(c) For the purposes of the provisions of these rules concerning open meetings, an official meeting of the board is defined as any gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of board members for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting public business within the jurisdiction, real or apparent, of the board.

Comment: See G.S. 143-318.10(d). The Open Meetings Law provides that a social meeting or other informal assembly or gathering together of the members of the board does not constitute an official meeting unless it is "called or held to evade the spirit and purposes" of the laws requiring meetings to be open.

Rule 3. Closed Sessions.

(a) Notwithstanding the provisions of Rule 2, the board may hold a closed session and exclude the public, under the following circumstances and no others:

1. To prevent the disclosure of information that is privileged or confidential pursuant to the law of this state or of the United States, or is not considered a public record within the meaning of Chapter 132 of the General Statutes.

Comment: See G. S. 143-318.11(a)(1).

2. To consult with the county attorney or another attorney employed or retained by the county in order to preserve the attorney-client privilege.

Comment: See G.S. 143-318.11(a)(3). The statute provides that general policy matters may not be discussed in a session closed in order to consult with the county attorney, and the mere fact that the county attorney is participating in a board meeting is not grounds to close the meeting. The statute further provides that the board may consider and give instructions to the attorney concerning handling or settlement of any pending litigation or other matter in controversy, but the terms of any settlement (other than a malpractice claim against a public hospital) must be reported to the board of commissioners and entered in the minutes "as soon as possible with an a reasonable time" after the settlement is concluded.

3. To discuss matters relating to the location or expansion of industries or other businesses in the county.

Comment: See G.S. 143-318.11(a)(4).

4. To consider and take action with respect to the position to be taken by the county in negotiating the price or other material terms of an agreement for the acquisition or lease of real property.

Comment: See G.S. 143-318.11(a)(5). The statute does not permit a closed session to discuss negotiations for purchase or lease of personal property.

5. To consider and take action with respect to the position to be taken by the county in negotiating the amount of compensation or other material terms of an employment contract.

Comment: See G.S. 143-318.11(a)(5).

6. To consider the initial employment or appointment of an individual to any office or position, other than a vacancy on the board of county commissioners or any other public body, and to consider the qualifications, competence, performance, character, and fitness of any public officer or employee, other than a member of the board of commissioners or of some other public body.

Comment: See G.S. 143-318.11(a)(6). Final action on appointments and discharges must be taken in open session. The statute specifically prohibits discussing general personnel policy issues in closed session. It also prohibits discussion in closed session of removing from office a member of the board of commissioners or any other public body. This prohibition does not preclude discussion of removing from office an individual officer or employee who is not a member of a "public body."

7. To hear or investigate a charge or complaint by or against an individual public officer or employee.

Comment: See G.S. 143-318.11(a)(6). Final action discharging an employee or removing an official from office must be taken in open session.

8. To plan, conduct or hear reports concerning investigations of alleged criminal misconduct.

Comment: See G.S. 43-318.11(a)(7).

(b) The board may go into closed session only upon motion made and adopted at an open meeting. A motion to go into closed session must cite one or more of the permissible purposes listed in subsection (a) of this rule. In addition, a motion to go into closed session pursuant to Rule 3(a)(1) must state the name or citation of the law that renders the information to be discussed privileged or confidential, and a motion to go into closed session pursuant to Rule 3(a)(2) must identify the parties in each existing lawsuit, if any, concerning which the board expects to receive advice during the closed session.

Comment: See G.S. 143-318.11(c).

(c) Unless the motion to go into closed session provides otherwise, the county manager, county attorney, and clerk to the board may attend the closed session. No other person may attend the closed session unless specifically invited by majority vote of the board.

Comment: The Open Meetings Law does not address this point. Although they have no legal right to attend a closed session, the manager, attorney, and clerk to the board are officers of the board itself, and most boards will want them present at every meeting. All other persons should be excluded unless their presence is reasonably necessary to facilitate the board's deliberations on the matter before it.

III. Organization of the Board

Rule 4. Organizational Meeting

(a) Even-numbered Years. The board shall hold an organizational meeting at its regular meeting place at 6:30 P.M. on the first Monday in December of each even-numbered year. The agenda for this organizational meeting shall be limited to induction of newly elected members of the board of county commissioners and other elected county officials and organization of the board for the ensuing year. [The organizational meeting shall be convened and concluded before the regular December meeting is convened.] The county manager shall call the meeting to order and shall preside until a chair is elected. If they have not already been sworn and inducted into office, the newly elected members of the board shall take and subscribe the oath of office as the first order of business. As the second order, the board shall elect a chair and vice-chair from among its members. As the third order, the board shall approve the bonds of the sheriff and the register of deeds and induct them and any other newly elected county officials into office.

Comment: The sentence in brackets should be included if the board normally holds a regular meeting on the first Monday of the month.

(b) Odd-numbered Years. At the first regular meeting in December of each odd-numbered year, the first order of business shall be approval of the minutes of the previous meeting. The second order of business shall be election of the chair and vice-chair for the ensuing year.

Comment: This rule incorporates the requirements of G.S. 153A-26 concerning the times for organizational meetings and the qualifications of new members and the requirements of G.S. 153A-39 concerning the election of the chair and vice-chair. G.S. 161-4 (for the register of deeds), G.S. 162-9 (for the sheriff), require the board to approve the bonds of these officials.

G.S. 153A-26 provides that the oath of office is that prescribed by Article VI, Section 7, of the North Carolina Constitution (see also G.S. 11-6 and -7) and may be administered by any person authorized by law to administer oaths. The written statement of the oath shall be signed by each new member and filed with the clerk to the board. The statute also provides that a new member who cannot be present at the organizational meeting may take and subscribe the oath later.

Who presides at the organizational meeting until the new chair is elected? This question is often resolved by local custom: in some counties the clerk to the board or county manager presides, while in others the old chair presides until the new chair is elected.

In some counties newly elected members are not sworn and inducted until the board has approved the minutes of the previous meeting and concluded any unfinished business from that meeting. Allowing retiring members to take any official action at the organizational meeting is of doubtful legality, with the possible exception of participating in the approval of the minutes of the previous meeting. The better practice is for the old board to take the time it needs to finish its pending business before the first Monday in December.

Rule 5. Election of the Chair.

The chair of the board shall be selected annually for a term of one year and shall not be removed from the office of chair unless he or she becomes disqualified to serve as a member of the board.

Comment: G.S. 153A-39 provides for the election of a chair and states that he or she is chosen "for the ensuing year". This rule is inappropriate for counties where the chair is chosen by some other method pursuant to a local act of the General Assembly.

IV. Regular and Special Meetings

Rule 6. Regular and Special Meetings.

(a) Regular Meetings. The Board shall hold a regular meeting on the third Monday of each month. If a regular meeting day is a holiday on which county offices are closed, the meeting shall be held on the next business day or such succeeding day as may be specified in the motion adjourning the immediately preceding regular meeting. Regular meetings shall be held in the Commissioners' Chambers at the Cabarrus County Governmental Center and shall begin at 6:30 P.M. The board may change the place or time of a particular regular meeting or of all regular meetings within a specified period by resolution adopted, posted, and noticed at least **seven days** before the change takes effect. Such a resolution shall be filed with the clerk to the board and posted at or near the regular meeting place, and copies shall be sent to all persons who have requested notice of special meetings of the board.

Comment: See G.S. 143-318.12(b)(1) and G.S. 153A-40(a). Any permanent change in the schedule of regular meetings must be adopted at least ten days before the first meeting to which the new schedule applies. Also, G.S. 153A-40 requires the board of county commissioners to meet at least once a month. The notice requirements of the proposed rule are somewhat broader than those required by law.

(b) Special Meetings. The chair or a majority of board members may at any time call a special meeting of the board by signing a notice stating the time and place of the meeting and the subjects to be considered. The person or persons calling the meeting shall cause the notice to be posted on the principal bulletin board of the county or the door of the regular meeting place if there is no principal bulletin board and delivered to the chair and all other board members or left at the usual dwelling place of each member at least forty-eight (48) hours before the meeting. In addition, the notice shall be mailed or delivered to individual persons and news organizations having requested such notice as provided in subsection (d) below. Only items of business specified in the notice may be transacted at a special meeting, unless all members are present or those who are not present have signed a written waiver.

Comment: See G.S. 153A-40A(a) and 143-318.12(b)(2).

(c) Emergency Meetings. If a special meeting is called to deal with an unexpected circumstance that requires immediate consideration by the board, the notice requirements of this rule do not apply. However, the person or persons calling an emergency meeting shall take reasonable action to inform the other members and the public of the meeting. Local news organizations having requested notice of special meetings as provided in subsection (d) below, shall be notified of such emergency meetings by the same method used to notify board members. Only business connected with the emergency may be discussed at the meeting.

Comment: See G.S. 153A-40(b) and 143-318.12(b)(3).

(d) Sunshine List. Any individual and any newspaper, wire service, radio station, and television station may file with the clerk to the board of commissioners a written request for notice of all special meetings of the board. Requests by individuals must be renewed by the last day of each calendar quarter; requests by news organizations must be renewed annually by January 1 and are not subject to any fee.

Comment: See G.S. 143-318.12(b)(2).

(e) Work Sessions and Committee Meetings. The Board may schedule work sessions, committee meetings, or other informal meetings of the board or of a majority of its members at such times and concerning such subject matter as may be established by resolution or order of the board. **A schedule of any such meetings held on a regular basis shall be filed in the same place and manner as the schedule of regular meetings. Work sessions and other informal official meetings not held on a regular basis are subject to the same notice requirements as special board meetings.**

Comment: The Open Meetings Law requires that any "official meeting" where a majority of the board deliberates on public business must be open to the public and notice must be given. The last sentence of this rule embodies that principle. The rule goes beyond the Open Meetings Law in requiring a published schedule of work sessions or committee meetings held regularly.

G.S. 143-318.13(a) provides that if the board holds any regular, special, emergency, or other official meeting by conference telephone or other electronic means, the clerk shall provide a location and method whereby the public may listen to the meeting and notice of the meeting shall specify that location.

Rule 7. All Meetings Within the County.

All meetings shall be held within the boundaries of Cabarrus County except as otherwise provided herein.

- (1) A joint meeting with the governing board of any other political subdivision of this state or any other state may be held within the boundaries of either subdivision as may be specified in the call of the meeting. At any such joint meeting, this board reserves the right to vote separately on all matters coming before the joint meeting.
- (2) A special meeting called for considering and acting on an order or resolution requesting members of the General Assembly representing all or any portion of this county to support or oppose any bill pending in the General Assembly or proposed for introduction therein may be held in Raleigh or other such place as may be stated in the call of the meeting.

Comment: See G.S. 153A-40(c). This statute also speaks of two other categories of gatherings that may be held outside county boundaries: retreats, and meetings with the legislative delegation representing the county in the General Assembly. Because the statute expressly forbids the board to take any official action at such meetings, they are not mentioned in the proposed rule. Remember, however, that such meetings are covered by the Open Meetings Law if a majority of the board is present and "deliberates" on public business.

Rule 8. Broadcasting and Recording of Meetings.

(a) Except as provided in this rule, any radio or television station is entitled to broadcast all or any part of an official meeting of the board that is required to be open to the public. Any person may photograph, file, tape-record, or otherwise reproduce any part of a meeting required to be open.

(b) Any radio or television station wishing to broadcast any portion of an official board meeting shall so notify the county manager no later than twenty-four (24) hours before the meeting. If the number of requests or the quantity and size of the necessary equipment is such that the meeting cannot be accommodated in the designated meeting room and no suitable alternative site in the county office building is available, the county manager may require the news media to either pool equipment and personnel or to secure and pay the costs of an alternative meeting site mutually agreeable to the board and the media representatives.

Comment: See G.S. 143-318.14. Notwithstanding the proposed rule, the board probably could not exclude broadcasters simply because they failed to give the suggested twenty-four-hour notice.

V. Agenda

Rule 9. Agenda.

(a) The clerk to the board shall prepare the agenda for each regular, special, and emergency meeting. A request to have an item of business placed on the agenda for a regular meeting must be received by 10:00 A.M. seven (7) working days prior to the meeting. Any board member, may, by a timely request, have an item placed on the agenda.

(b) The agenda packet shall include the agenda document, any proposed ordinances or amendments to ordinances, and supporting documentation and background information relevant to items on the agenda. A copy of the agenda packet shall be delivered to each board member at least one hundred forty-four (144) hours before the meeting. Documents in the agenda packet, if not previously available for public inspection, shall become so when packets have been delivered to each board member or left at his or her usual dwelling.

(c) The board may, by majority vote, add an item not on the agenda.

Comment: Because of the increased volume and complexity of the matters they must consider, nearly all boards use an agenda. Some boards use an agenda only to organize the material and to give themselves an opportunity to study the issues before they meet. These boards generally allow last-minute additions to the agenda by general consent, and this rule takes that approach. Other boards use their agenda to control the length of meetings, and will often hold a work session before the regular meeting to ask questions and thoroughly explore the proposals to be voted on at the meeting. Generally these boards do not allow late additions to the agenda unless an emergency exists.

The manager may for convenience maintain a mailing list of interested parties wishing to receive a copy of the agenda regularly.

Rule 10. Informal Public Comments.

The clerk to the board shall include on the agenda of each regular meeting of the month at least fifteen (15) minutes for comments or questions from the public in attendance. The chair will first recognize individuals or groups who have submitted a “speaker’s card” at the meeting, and then may recognize others, subject to available time. The chair will specify the time allotted to each speaker is three (3) minutes. Speakers may not yield their time to other people and the time for an individual speaker may be extended only by motion and majority vote of the Board. When the time set aside for informal public comments has expired, the chair will recognize further speakers only upon motion, duly made and adopted.

Comment: The board may decide as a general policy to set aside part of each meeting for individuals or groups to address the board. The rule allows any individual or group to get on the agenda but lets the board decide whether there is time to hear its comments.

Rule 11. Order of Business.

At regular meetings, the board shall proceed to business in the following order:

1. Presentation of Colors
2. Invocation
3. Approval of Minutes
4. Approval of the Agenda
5. Recognitions and Presentations

6. Informal Public Comments
7. Old Business
8. Consent Agenda
9. New Business
10. Appointments to Boards & Committees
11. Reports
12. General Comments by the Board
13. Closed Session (if needed)

Without objection, the chair may call items in any order most convenient for the dispatch of business.

Comment: As a courtesy, by general consent, those items requiring participation of nonmembers such as administrative officials and the public, may be considered first.

VI. Conduct of Debate

Rule 12. Powers of the Chair.

The chair shall preside at all board meetings. To address the board, a member must be recognized by the chair. The chair shall have the following powers:

1. To rule on points of parliamentary procedure, including the right to rule out of order any motion patently offered for obstructive or dilatory purposes;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
3. To call a brief recess at any time;
4. To adjourn in an emergency.

Comment: This rule replaces the question of order and appeal in *Robert's Rules of Order* (hereinafter referred to as *RRO*). Here, the chair's authority increases: his or her decisions regarding decorum in debate and rules of parliamentary procedure are final and cannot be appealed to the membership. In *RRO*, a recess can be taken only on a motion and vote by the members. This rule gives the chair authority to declare a recess when necessary to "clear the air" and thus hold friction among the members to a minimum.

Rule 13. Action by the Board.

The board shall proceed by motion. Any member, including the chair, may make a motion.

Rule 14. Second Required.

A motion shall require a second before a vote is taken.

Rule 15. One Motion at a Time.

A member may make only one motion at a time.

Rule 16. Substantive Motion.

A substantive motion is out of order while another substantive motion is pending.

Comment: This rule sets forth the basic principle of parliamentary procedure: to consider and deal with distinct issues one at a time. A new proposal may not be put forth until action on the preceding one has been concluded.

RRO does not refer to substantive motions as such; instead, it uses such adjectives as "main" or "principal". Here, a substantive motion is any motion other than the procedural motions listed in Rule 19. The possible subject of a substantive motion coextends with the board's legal powers, duties, and responsibilities. Indeed, since Rule 13 provides that the board proceed by motion, the substantive motion is the board's exclusive method of action. The procedural motions detailed in the following rules set forth the board's various options in disposing of substantive motions.

Rule 17. Adoption by Majority Vote.

A motion shall be adopted if approved by a majority of the votes cast, a quorum being present, unless an extraordinary majority is required by these rules or North Carolina laws.

Rule 18. Debate.

The chair shall state the motion and then open the floor to debate, presiding over the debate according to these general principles:

- (1) The member making the motion or introducing the ordinance, resolution, or order is entitled to speak first.
- (2) A member who has not spoken on the issue shall be recognized before someone who has already spoken.
- (3) To the extent possible, the debate shall alternate between opponents and proponents of the measure.

Rule 19. Procedural Motions.

(a) In addition to substantive proposals, the procedural motions listed in subsection (b) of this rule, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority vote for adoption.

Comment: This rule substantially departs from *RRO*. Each procedural motion in *RRO* was reviewed to determine whether it was appropriate for use by a small board; substantial modifications and deletions were the result. The following enumeration of procedural motions is exhaustive; if a procedural option is not listed, it is not available.

(b) In order of priority (if applicable), the procedural motions are:

Comments: While a substantive motion is out of order if another substantive motion is pending, several procedural motions can be entertained in succession without necessarily disposing of the immediately pending one. The order of the list below establishes which procedural motion yields to which--for example, a move to defer consideration (6) may be made while a move to refer to committee (9) is pending because (6) ranks higher on the list.

1. *To Adjourn.* The motion may be made only at the conclusion of action on a pending matter; it may not interrupt deliberation of a pending matter.

Comment: This motion differs from the *RRO* motion in several respects. In *RRO*, it is not debatable or amendable and can be made at any time, even interrupting substantive deliberations. In view of the small number of members and the available procedures to limit debate, this rule allows debate and amendment of the motion to adjourn but allows this motion only when action on a pending matter is over. The motion to defer consideration or to postpone to a certain time and day may be used if the board wants to adjourn before completing action on a matter.

2. *To Take a Recess.*

Comment: *RRO* does not allow debate on this motion, but since the number of members is small and procedures to limit debate are available, this rule allows debate on the motion. As in *RRO*, the motion is in order at any time. Note that under Rule 12, the chair also has the power to call a brief recess.

3. *To Call to Follow the Agenda.* The motion must be made at the first reasonable opportunity or it is waived.

Comment: This motion differs from the call for the orders of the day in *RRO*: it may be debated and must be made when an item of business deviating from the agenda is proposed, or the right to insist on following the agenda is waived for that item.

4. *To Suspend the Rules.* The motion requires a simple majority vote.

Comment: This motion differs from *RRO* except in that it is debatable and amendable, and the number of necessary votes depends on the number of members in attendance providing that there is at least a quorum. Thus if there are five members present, at least three members must vote for the motion; if only three members are at a particular meeting, at least two must vote for the motion in order to adopt it. It is in order when the board wishes to something it may legally do but cannot without violating its own rules. The procedure will pose some problems for a three-member board, as manipulating the rule to prevent one member from participating in deliberations is possible. Frequent use of the motion to prevent one member from presenting proposals or from speaking on an issue is of doubtful legality. A three-member board may decide to require a unanimous vote to suspend the rules.

5. *To Divide a Complex Motion and Consider It by Paragraph.*

Comment: This motion is like the division of a question and consideration by paragraph in *RRO* except that it is debatable.

6. *To Defer Consideration.* A substantive motion whose consideration has been deferred expires one hundred (100) days thereafter, unless a motion to revive consideration is adopted.

Comment: This motion, which replaces the motion to lay on the table in *RRO*, was renamed to avoid confusion. It allows the board temporarily to defer consideration of a proposal. It differs from *RRO* in that it may be debated and amended, and in that a deferred motion dies if not taken up by the board (via a motion to revive consideration) within one hundred (100) days of the vote deferring consideration (in *RRO* a motion laid on the table dies at the end of that particular session of the assembly). One hundred (100) days is the suggested time for deferring consideration because it is also the time within which a proposed ordinance must be enacted (see Rule 26).

7. *To Call the Previous Question.* The motion is not in order until every member has had one opportunity to speak.

Comment: This motion differs from the one in *RRO*. The *RRO* motion is always in order, is not debatable or amendable, and requires a two-thirds vote for adoption. Thus, it may compel an immediate vote on a proposal without any debate on the issue. Such a device may be necessary to preserve efficiency in a large assembly, but with a small board, a minimum period of debate on every proposal strikes a better balance between efficiency and effective representation by all members. Since every member will have an opportunity to speak, the debate may be ended by a majority vote.

8. *To Postpone to a Certain Time or Day.*

Comment: This motion allows the board to defer consideration to a specified time or day and is appropriate when more information is needed or the deliberations are likely to be lengthy.

9. *To Refer to Committee.* Sixty (60) days after a motion has been referred to committee, the introducer may compel consideration of the measure by the entire board, regardless of whether the committee has reported the matter back to the board.

Comment: This motion is like the motion in *RRO* except that the introducer's right to compel consideration by the full board after a specified time prevents using the motion to defeat a proposal by referring it to a committee that intends to take no action. If the board does not use committees, this rule is unnecessary.

10. *To Amend.* An amendment to a motion must be germane to the subject of the motion, but it may not achieve the opposite effect of the motion. There may be an amendment to the motion and an amendment to an amendment, but no further amendments. Any amendment to a proposed ordinance shall be reduced to writing.

Comment: This motion is identical to the motion in *RRO* except for the additional requirement for written amendments to proposed ordinances.

11. *To Revive Consideration.* The motion is in order at any time within one hundred (100) days of a vote deferring consideration. A substantive motion on which consideration has been deferred expires one hundred (100) days after the deferral, unless a motion to revive consideration is adopted.

Comment: This motion replaces the motion to take up from the table in *RRO* and was renamed to avoid confusion. It may be debated and amended; the motion in *RRO* may not. If the motion to revive consideration is not successful within one hundred (100) days of the original deferral, the substantive motion expires. The subject matter of the motion may be brought forward again by a new motion.

12. *To Reconsider.* The motion must be made at the same meeting where the original vote was taken, and by a member who voted with the prevailing side. The motion cannot interrupt deliberation on a pending matter but is in order any time before adjournment.

Comment: According to *RRO*, the motion may be made at the same meeting or on the next legal day and may interrupt deliberation on another matter. The rule does not allow reconsideration of a vote once the

meeting adjourns. A member wishing to reverse an action taken at a previous meeting may make a motion or introduce a new ordinance having the opposite effect.

13. *To Prevent Reconsideration for Six (6) Months.* The motion shall be in order only immediately following the defeat of a substantive motion and at no other time. The motion requires a vote equal to a quorum and is valid for six (6) months or until the next regular election of county commissioners, whichever occurs first.

Comment: This clincher motion prevents the same motion from being continually introduced when the subject has been thoroughly considered. Because this motion curtails a member's right to bring a matter before the board, a vote equal to a quorum is required. As with every other motion, a clincher may be dissolved by a motion to suspend the rules. Six (6) months is merely a suggested time; the board may shorten or lengthen this as it sees fit. The motion is not effective beyond the next regular election, in order to give the new board a clean slate.

Rule 20. Renewal of Motion.

A defeated motion may not be renewed at the same meeting.

Rule 21. Withdrawal of Motion.

A motion may be withdrawn by the introducer any time before the chair puts the motion to a vote.

Comment: *RRO* provides that once a motion has been stated by the chair for debate, it cannot be withdrawn without the assembly's consent--a procedure unnecessary for a small board.

Rule 22. Duty to Vote.

It is the duty of each member to vote unless excused by a majority vote according to law. The board may excuse members from voting on matters involving their own financial interest or official conduct. A member wishing to be excused from voting shall so inform the chair, who shall take a vote of the remaining members. A member who fails to vote, not having been excused, shall be recorded as voting in the affirmative.

Comment: G.S. 153A-44 provides that board members have a duty to vote, but does not state the remedy for failure to do so. Many boards record all members as voting yes on any matter put to a vote unless the members audibly vote no. A few boards reverse the presumption and record members as voting no unless they audibly vote yes.

Rule 23. Prohibition of Secret Voting.

No vote may be taken by secret ballot. If the board decides to vote by written ballot, each member shall sign his or her ballot and the minutes shall record the vote of each member. These ballots shall be retained and made available for public inspection until the minutes of that meeting have been approved, when they may be destroyed.

Comment: See G.S. 143-318.13(b).

Rule 24. Action by Reference.

The board shall not deliberate, vote, or otherwise act on any matter by reference to an agenda or document number unless copies of the agenda or documents being referenced are available for public inspection at the meeting and are so worded that people at the meeting can understand what is being discussed or acted on.

Comment. See G.S. 143-318.13(c).

Rule 25. Introduction of Ordinances, Resolutions, and Orders.

A proposed ordinance shall be deemed introduced at the first meeting where it is on the agenda, or added to the agenda by a majority vote of the board, regardless of whether it is actually considered by the board, and its introduction shall be recorded in the minutes.

Comment: G.S. 153A-45 provides that an ordinance may not be finally adopted at the meeting where it is introduced except by unanimous vote; the definition of introduction therefore is important because it makes a difference in the number of votes required to adopt an ordinance. No North Carolina judicial decisions have addressed the question of when an ordinance is considered to have been introduced. This rule assumes that a measure is introduced when it has been formally presented to the board through an agenda that has been approved by the chair or by an item added to the agenda by a majority vote of the board. An alternative would be to consider introduction to have taken place only when the board begins to consider the measure, in which case this rule should be revised to read as follows: "A proposed ordinance shall be deemed introduced at the first meeting where it is actually considered by the board."

Rule 26. Adoption, Amendment, or Repeal of Ordinances.

To be adopted at the meeting where it is first introduced, an ordinance or an action with the effect of an ordinance, or any ordinance amended or repealing an existing ordinance (except the budget ordinance, a bond order, or another ordinance requiring a public hearing before adoption) must be approved by all members of the board of commissioners. If the proposed measure is approved by a majority but not by all the members of the board, or if the measure is not voted on at that meeting where introduced, it shall be considered at the next regular meeting of the board. If the proposal receives a majority of the votes cast at the next meeting or at any time thereafter within one hundred (100) days of being introduced, it is adopted.

Comment: See G.S. 153A-45. See also G.S. 153A-46 for requirements for granting franchises.

Rule 27. Quorum.

A majority of the board membership shall constitute a quorum. The number required for a quorum is not affected by vacancies. If a member has withdrawn from a meeting without being excused by majority vote of the remaining members, he or she shall be counted as present for the purposes of determining whether a quorum is present. The board may compel the attendance of an absent member by ordering the sheriff to take the member into custody.

Comment: See G.S. 153-43. Compelling the attendance of a member by ordering the sheriff to take him or her into custody is an extraordinary remedy to be used when a member obstinately refuses to attend meetings, for the purpose of preventing action on a proposal. If the board contemplates using this power, it might wisely give absent members notice that their attendance is required by the majority and may be compelled in this manner.

Rule 28. Public Hearings.

Public hearings required by law or deemed advisable by the board shall be scheduled and notice given in accordance with the procedures set forth by the North Carolina General Statutes, including the subject, date, place, and time of the hearing. Prior to the beginning of the public hearing, the chair may set any rules regarding the length of time allotted to each speaker, designating representatives to speak for large groups, and other such rules he feels reasonable to conduct the hearing. At the appointed time, the chair shall call the hearing to order and preside over it. When the allotted time expires, the chair shall declare the hearing ended and the board shall resume the regular order of business.

Comment: G.S. 153A-52 provides that public hearing may be held anywhere within the county and gives the board authority to adopt rules governing the hearings.

Rule 29. Quorum at Public Hearings.

A quorum of the board must be present at all public hearings required by law.

Comment: G.S. 153A-52 implies that a quorum of governing board members is necessary for a public hearing by providing that a hearing shall be deferred to the next regular meeting if a quorum is not present at the originally scheduled time. However, if the board decided to hold a public hearing not required by law to gather a consensus of public opinion on an issue, the hearing could be held at several different sites, with a few members at each site.

Rule 30. Minutes. Minutes shall be kept of all board meetings.

Comment: See G.S. 143-318.10(d) and the discussion of minutes (pages 48-49) in Bonnie E. Davis', *Handbook for North Carolina County Commissioners* (second edition, revised by Joseph S. Ferrell, Institute of Government, 1985). G.S. 143-318.11(d) provides that minutes and other records of a closed session may be withheld from public as long as such inspection would frustrate the purpose of the closed session.

Rule 31. Appointments.

The Board shall use the following procedure to make appointments to fill vacancies in the board itself or in other boards and public offices over which the board has power of appointment.

The chair shall open the floor to nominations, whereupon the members shall put forward and debate names of possible appointees. If the nominations equal the number of openings, the board can accept nominations by acclamation. After the debate, the chair shall call the roll of the members, and each member shall vote. The votes shall not be tallied until each member has voted.

Each vote shall be decided by a majority of the valid ballots cast (a majority is determined by dividing the number of valid ballots cast by two and taking the next highest whole number). It is the duty of each member to vote for as many appointees as there are appointments to be made, but failure to do so does not invalidate that member's ballot.

Rule 33. Reference to *Robert's Rules of Order*.

To the extent not provided for in, and not conflicting with the spirit of, these rules, the chair shall refer to *RRO* to resolve procedural questions.

Comment: RRO was designed to govern a large legislative assembly, and many of its provisions may be inappropriate for small boards. Nevertheless, it is the best source of parliamentary procedure; care should simply be taken to adjust RRO to meet the needs of small governing boards.

Revisions:

January 7, 2003 – Section V. Rule 9(a)(b)

November 17, 2003 – Rule 10 and Rule 11

Rules of Procedure for the Cabarrus County Board of Commissioners

Part I. Applicability

Rule 1. Applicability of Rules

These rules apply to all meetings of the Board of Commissioners of Cabarrus County. For purposes of these rules, a meeting of the board occurs whenever a majority of the board's members gather, whether in person or simultaneously by electronic means, to conduct hearings, deliberate, vote, or otherwise transact public business within the board's real or apparent jurisdiction.

Part II. Quorum

Rule 2. Quorum

The presence of a quorum is necessary for the board to conduct business. A quorum consists of a majority of the board's membership. The term "majority" as used here and elsewhere in these rules means, unless otherwise specified, a simple majority, that is, more than half. Vacancies do not reduce the number of members necessary to establish a quorum. A member who withdraws from a meeting of the board without being excused by majority vote of the remaining members present is deemed present for quorum purposes. The board may compel an absent member to attend by ordering the sheriff to take the member into custody.

Part III. Open Meetings

Rule 3. Remote Participation in Board Meetings

A member may remotely participate in Board Meetings so long as they can be clearly heard by all present at the meeting and can clearly hear the discussion being had by the present quorum. The remote participant may vote on any item so long as they are fully informed prior to the vote.

Rule 4. Meetings to Be Open to the Public

Except as permitted by Rule 5 (Closed Sessions), all meetings of the board shall be open to the public, and any person may attend its meetings.

Rule 5. Closed Sessions

(a) Motion to Enter Closed Session. The board may enter a closed session from which the public is excluded only upon a motion duly made and adopted in open session. The motion to enter closed session must cite one or more of the permissible bases for closed session listed in paragraph (b) of this rule. A

motion to enter closed session under subparagraph (b)(1) or (b)(2) must contain the additional information specified in those provisions.

(b) Bases for Closed Session. A closed session is permissible under the following circumstances and no others:

- (1) To prevent the disclosure of information that is privileged or confidential under the law of North Carolina or of the United States or that does not constitute a public record within the meaning of Chapter 132 of the General Statutes. The motion to enter closed session must name or cite the law that renders the information confidential or privileged.
- (2) To consult with the county attorney or another attorney employed or retained by the county in order to preserve the attorney–client privilege. If the board expects to discuss a pending lawsuit with its attorney, the motion to enter closed session must name the parties to the lawsuit.
- (3) To discuss matters relating to (a) the location or expansion of industries or other businesses in the area served by the county or (b) the closure or realignment of a military installation. The board may reach agreement in closed session on a tentative list of economic development incentives to be offered in negotiations, but the approval of the signing of any economic development contract or commitment and the authorization of the payment of economic development expenditures must take place in open session.
- (4) To establish or instruct staff or agents concerning the county’s position in negotiating the price or other material terms of an agreement to acquire real property by purchase, exchange, or lease.
- (5) To establish or instruct staff or agents concerning the amount of compensation or other material terms of an employment contract.
- (6) To consider the qualifications, competence, performance, character, fitness or conditions of appointment or employment of a public officer or employee or prospective public officer or employee, except when the individual in question is a member of the board or other public body or is being considered to fill a seat on the board or other public body. Final action to appoint or employ a public officer or employee must take place in open session.
- (7) To hear or investigate a charge or complaint by or against a public officer or employee. Final action discharging an employee or removing an officer must occur in open session.
- (8) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.
- (9) To view a law enforcement recording released pursuant to G.S. 132-1.4A.
- (10) On any other basis permitted by law.

(c) Closed Session Participants. Unless the board directs otherwise, the county manager, county attorney, and clerk to the board may attend closed sessions of the board. No other person may attend a closed session unless invited by the board.

(d) Motion to Return to Open Session. Upon completing its closed session business, the board shall end the closed session by adopting a duly made motion to return to open session.

Rule 6. Meeting Minutes

(a) Minutes Required for All Meetings. The board must keep full and accurate minutes of all of its meetings, including closed sessions. To be “full and accurate,” minutes must record all actions taken by the board. They should set out the precise wording of each motion and make it possible to determine the number of votes cast for and against each motion. The minutes need not record discussions of board members, though the board in its discretion may decide to incorporate such details into the minutes.

(b) General Accounts of Closed Sessions. In addition to minutes, the board must keep a general account of each closed session. The general account must be sufficiently detailed to provide a person not in attendance with a reasonable understanding of what transpired. The board may combine the minutes and general account of a closed session into one document, so long as the document contains both a complete record of actions taken and the level of detail required for a general account.

(c) Sealing Closed Session Records. Minutes and general accounts of closed sessions shall be sealed until unsealed by order of the board or, if the board delegates the authority to unseal to one or more staff members, in accordance with guidelines adopted by the board. The sealed minutes and general account of any closed session may be withheld from public inspection, so long as public inspection would frustrate the purpose(s) of the closed session.

Rule 7. Broadcasting and Recording Meetings

(a) Right to Broadcast and Record. Any person may photograph, film, tape-record, or otherwise reproduce any part of a board meeting that must take place in open session. Except as provided in paragraph (b) of this rule, any radio or television station may broadcast any such part of a board meeting.

(b) Equipment Placement. The staff may regulate the placement and use of camera or recording equipment in order to prevent undue interference with a board meeting, so long as he or she allows the equipment to be placed where it can carry out its intended function. If the county manager determines in good faith that the equipment and personnel necessary to broadcast, photograph, or record the meeting cannot be accommodated without undue interference to the meeting, and an adequate alternative meeting room is not readily available, the county manager may require the pooling of the equipment and the personnel operating it.

Part IV. Organization of the Board

Rule 8. Organizational Meeting; Selection of Chair and Vice Chair

(a) Requirement to Hold Organizational Meeting. The board shall hold an organizational meeting each December to take the actions set out in this rule.

(b) Scheduling Organizational Meeting

- (1) *Even-numbered years.* The board shall hold an organizational meeting at its regular meeting place on the first Monday in December of each even-numbered year. [The organizational meeting shall be convened and concluded before the regular December meeting is convened.]
- (2) *Odd-numbered years.* The board shall hold an organizational meeting during its first regular

meeting in December.

(c) Order of Business

(1) *Even-numbered years*

- (A) As the first order of business at the organizational meeting, all persons elected or reelected to the board at the most recent county election must take and subscribe the oath of office set out in Article VI, Section 7, of the North Carolina Constitution, unless they did so earlier in the day. They must then take the General Oath prescribed by G.S. 11-11. Each member’s constitutional oath must be filed with the clerk to the board. Although a newly elected or reelected member who has not yet been sworn and who is not present for the organizational meeting may be sworn in later, the member must take, subscribe, and file the constitutional oath and take the G.S. 11-11 oath before he or she begins performing any of the duties of the member’s office.
- (B) As the second order of business, the board shall elect a chair and vice chair from among its members using the procedure specified in Rule 38 (Appointments.)
- (C) As the third order of business, the board shall approve the bonds of the register of deeds and induct any other newly elected county officials into office.

(2) *Odd-Numbered Years.* As the first order of business, the board will elect the chair and vice chair.

(d) Presiding Officer. The outgoing chair shall call the organizational meeting to order and preside until the board elects a new chair. If the organizational meeting takes place during an even-numbered year in which the outgoing chair has lost his or her seat on the board, the county manager shall fill the role of presiding officer until a new chair is elected. Once elected, the new chair shall preside.

Rule 9. Terms of the Chair and Vice Chair

The member selected as chair at the organizational meeting shall serve for the ensuing year unless removed by the board for cause. The vice chair shall serve at the board’s pleasure.

Part V. Types of Meetings

Rule 10. Regular Meetings

(a) Regular Meeting Schedule. The board shall hold a regular meeting (Agenda Work Session) on the first Monday of each month, in the Multipurpose Room of the Government Center (65 Church Street Concord, NC) beginning at 4:00 p.m. The board will also hold a regular meeting on the third Monday of each month, in the board chambers of the Government Center (65 Church Street Concord, NC) to begin at 6:30 p.m., except if a regular meeting day is on a holiday on which county offices are closed. The board will then determine the next meeting date and have it published according to N.C.G.S. timeline. The board shall adopt a resolution establishing the meeting schedule each year consistent with this rule. For purposes of these rules, any meeting that appears on the board’s duly adopted schedule is considered a regular meeting. (In all other cases, a work session is a special meeting to which the provisions of Rule 11(Special

Meetings) apply.)

(b) Notice of Regular Meeting Schedule. The board must ensure that a copy of its current regular meeting schedule is filed with the clerk to the board and posted on the county's website. At least 10 days before the first regular meeting held pursuant to the schedule, the board must cause the schedule to be published as required by law.

(c) Change to Regular Meeting Schedule. The board may adopt a resolution altering the time or place of a particular regular meeting or all regular meetings within a specified period. The board must ensure that the resolution is filed with the clerk to the board at least seven (7) calendar days before the first meeting held pursuant to the revised schedule. The board must also have the revised schedule posted on the county's website. Additionally, the board must cause notice of the temporary change to be posted at or near its regular meeting place and to be sent to everyone who has submitted a written request for notice of its special meetings.

Rule 11. Special Meetings

(a) Calling Special Meetings. The chair or a majority of members may call a special meeting of the board by signing a written notice stating the date, time, and place of the meeting and the subjects to be considered.

(b) Notice to the Public. At least forty-eight hours before a special meeting, the board shall cause the written notice to be (1) posted on the board's principal bulletin board or, if the board has no such bulletin board, at the door of the board's usual meeting room and (2) delivered, emailed, or mailed to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the clerk to the board. If the board's website is maintained by one or more county employees, the board must also have the notice posted there prior to the special meeting. Furthermore, the member or members who call a special meeting are responsible for ensuring that the notice is posted on the courthouse bulletin board at least forty-eight (48) hours before the meeting.

(c) Notice to Members. At least forty-eight (48) hours before a special meeting, the chair or the members who called the meeting shall have the written notice of the meeting delivered to the other members of the board or left at their usual dwelling places.

(d) Transacting Other Business. Only those items of business specified in the notice to members may be taken up at a special meeting.

Rule 12. Emergency Meetings

(a) Calling Emergency Meetings. The chair or a majority of the board's members may call an emergency meeting to address generally unexpected circumstances that demand the board's immediate attention.

(b) Notice of Emergency Meetings. The member or members who call an emergency meeting must take reasonable action to inform the other members of the board and the public of the meeting. In addition, notice of the meeting must be given to each local newspaper, local wire service, local radio station, and local television station that has filed with the clerk to the board a written request to be notified of emergency meetings. To be valid, the request must include the newspaper's, wire service's, or station's

telephone number. Notice may be given by telephone, email, or the same method used to notify board members. Notice must be provided immediately after members have been notified and at the expense of the media organization notified.

(c) Transaction of Other Business Prohibited. Only business connected with the emergency may be discussed or otherwise considered at an emergency meeting.

Rule 13. Recessed Meetings

(a) Calling Recessed Meetings. When conducting a properly called regular, special, or emergency meeting, the board may recess the meeting to another date, time, or place by a procedural motion made and adopted in open session, as provided in Rule 32 (Motion 3 - To Recess to a Certain Time and Place.) The motion must state the time (including the date, if the meeting will resume on a different day) and place at which the meeting will reconvene.

(b) Notice of Recessed Meetings. If the board's website is maintained by one or more county employees, notice of the recessed meeting's date, time, and place must appear on the webpage prior to the meeting. No further notice of a properly called recessed meeting is required.

Rule 14. Limited Authority to Meet Outside the County

The board must hold all of its meetings within the county except for the following:

- a joint meeting of the board with another public body, if the joint meeting is held within the political subdivision represented by the other public body;
- a retreat, forum, or similar gathering held solely to provide board members with general information relating to the performance of their duties, so long as members do not vote or otherwise transact business during the event;
- a meeting between the board and the local legislative delegation during a session of the General Assembly, provided board members do not vote or otherwise transact public business during the meeting except with regard to matters pertaining directly to legislation proposed to or pending before the General Assembly; and
- a convention, association meeting, or similar gathering but only if board members confine their deliberations to event-related issues that are not legally binding on the board or its constituents, such as convention resolutions and the elections of association officers.

Part VI. Agenda

Rule 15. Agenda

(a) Draft Agenda

- (1) *Preparation.* The [clerk to the board] shall prepare a draft agenda in advance of each meeting of the board. For a regular meeting, a request to have an item of business placed on the draft agenda must be received by the clerk at least eight working days before the date of the meeting. The clerk

must place an item on the draft agenda in response to a board member's timely request.

- (2) *Supplemental information/materials.* The agenda packet shall include the draft agenda, any proposed ordinances or amendments to ordinances, and supporting documentation and background information relevant to items on the agenda.
- (3) *Delivery to board members.* Except in the case of an emergency meeting, each member shall receive a paper or electronic copy of the draft agenda and agenda packet at least forty-eight (48) hours before the meeting.
- (4) *Public inspection.* The draft agenda and agenda packet will be available to the public when they are ready to be circulated.

(b) Adoption of the Agenda

- (1) *Adoption.* As its first order of business at each meeting, the board shall review the draft agenda, make whatever revisions it deems appropriate, and adopt the agenda for the meeting.
- (2) *Amending the agenda.* Both before and after the board adopts the agenda, it may add or subtract agenda items by majority vote of the members present and voting, except that
 - the board may not add to the items stated in the notice of a special meeting unless the requirements in Rule 11(d - Transacting Other Business) are satisfied and
 - only business connected with the emergency may be discussed or otherwise considered at an emergency meeting.

(c) Consent Agenda. The board may designate part of an agenda for a regular meeting as the *consent agenda*. Items may be placed on the consent agenda by the person(s) charged with preparing the draft agenda if they are judged to be noncontroversial and routine. Prior to the board's adoption of the meeting agenda, the request of any member to have an item moved from the consent agenda to unfinished business must be honored by the board. All items on the consent agenda must be voted on and adopted by a single motion, with the minutes reflecting the motion and vote for each item.

(d) Informal Discussion of Agenda Items. The board may informally discuss an agenda item even when no motion regarding that item is pending.

Rule 16. Acting by Reference to Agenda or Other Document

The board shall not deliberate, vote, or otherwise take action on any matter by reference to the agenda or any other document unless copies of the agenda or document are available for public inspection at the meeting and so worded that people at the meeting can understand what is being deliberated or acted upon.

Rule 17. Agenda Items from Members of the Public

If a member of the public wishes to request that the board include an item on its regular meeting agenda, he or she must submit the request to the clerk to the board by the deadline specified in Rule 15(Agenda) (a – Draft Agenda)(1- Preparation). The board is not obligated to place an item on the agenda merely because such a request has been received.

Rule 18. Order of Business

Items shall be placed on a regular meeting agenda according to the order of business. The usual order of business for each regular meeting shall include the following topics and any others the clerk feels necessary to complete board business:

- Approval or Correction of Minutes
- Approval of the Agenda,
- Recognitions and Presentations
- Informal Public Comments
- Old Business,
- Consent Agenda,
- New Business,
- Appointments,
- Reports,
- General Comment by Board Members
- Water & Sewer District of Cabarrus County
- Closed Session
- Adjourn

Without objection, the chair may call agenda items in any order most convenient for the dispatch of business. Rule 19 (Role of the Presiding Officer).

Rule 19. The Chair

(a) Presiding Officer. The chair shall preside at meetings of the board.

(b) Voting by the Chair. The chair has the same duty to vote as other members, though in no event may the chair break a tie on a motion on which he or she has already voted.

(c) Recognition of Members. A member must be recognized by the chair or (or other presiding officer) in order to address the board, but recognition is not necessary for an appeal pursuant to Rule 32 (Motion 1-To Appeal a Ruling of the Presiding Officer).

(d) Powers as Presiding Officer. As presiding officer, the chair is to enforce these rules and maintain order and decorum during board meetings. The chair may:

- (1) rule on points of parliamentary procedure, to include ruling out of order any motion clearly offered for obstructive or dilatory purposes;
- (2) determine whether a member or other speaker has gone beyond reasonable standards of courtesy in his or her remarks and entertain and rule on objections from other members on this ground;
- (3) entertain and answer questions of parliamentary procedure;

- (4) call a brief recess at any time; and
- (5) adjourn in an emergency.

(e) Appeals of Procedural Rulings. A member may appeal a decision made or answer given by the chair under subparagraph (d)(1), (2), or (3) in accordance with Rule 32 (Motion 1 - To Appeal a Ruling of the Presiding Officer).

Rule 20. Presiding Officer in the Chair's Absence

The vice chair shall preside over meetings of the board in the chair's absence. If both the chair and vice chair are absent, the members present may choose a temporary chair from among themselves. The vice chair or other member presiding in place of the chair has the powers listed in Rule 19(d - Powers as Presiding Officer). Service as presiding officer does not relieve the vice chair or other member of the duty to vote on all questions except as excused from voting pursuant to Rule 29 (Duty to Vote).

Rule 21. When the Presiding Officer Is Active in Debate

If the chair becomes active in debate on a particular proposal, he or she may have the vice chair preside during the board's consideration of the matter. If the vice chair is absent or is also actively debating the matter, the chair may designate another member to preside until the matter is concluded. Similarly, if while presiding, the vice chair or temporary chair wishes to join in debating a topic, he or she may designate another member to preside for the duration of the board's consideration of the matter.

Part VII. Motions and Voting

Rule 22. Action by the Board

Except as otherwise provided in these rules, the board shall act by motion. Any member may make a motion.

Rule 23. One Motion at a Time

A member may make only one motion at a time.

Rule 24. Withdrawal of Motion

The member who introduces a motion may withdraw the motion unless the motion has been amended or put to a vote.

Rule 25. Debate

The presiding officer shall state the motion and then open the floor to debate, presiding over the debate according to the principles listed below.

- The maker of the motion is entitled to speak first.
- A member who has not spoken on the issue shall be recognized before a member who has

already spoken.

Rule 26. Adoption by Majority Vote

A motion is adopted if supported by a simple majority of the votes cast, a quorum being present, except when a larger majority is required by these rules or state law.

Rule 27. Changing a Vote

A member may change his or her vote on a motion at any time before the presiding officer announces whether the motion has passed or failed. Once the presiding officer announces the result, a member may not change his or her vote without the unanimous consent of the remaining members present. A member's request for unanimous consent to change a vote is not in order unless made immediately following the presiding officer's announcement of the result.

Rule 28. Duty to Vote

(a) Duty to Vote. Every board member must vote except when excused from voting as provided by this rule.

(b) Grounds for Excusal. A member may be excused from voting on a matter involving the member's own financial interest or official conduct, though not if the proposal in question is one to alter the compensation or allowances paid to board members. Members may also be excused from voting when prohibited from voting under G.S. 14-234 (contract providing direct benefit to member), G.S. 153A-340(g) (legislative zoning decision likely to have a direct, substantial, and readily identifiable financial impact on member), or G.S. 160A-388(e) (2) (member's participation in quasi-judicial decision would violate affected person's right to an impartial decision maker). Any further questions about whether a basis for excusal exists should be directed to the county attorney.

(c) Procedure for Excusal

- (1) *At the member's request.* Upon being recognized at a duly called meeting of the board, a member who wishes to be excused from voting shall so inform the presiding officer, who must then submit the matter to a vote of the remaining members present. If a majority of the remaining members present vote to excuse the member, the member is excused from voting on the matter.
- (2) *On the board's initiative.* Even when a member has not asked to be excused from voting on a matter, a majority of the remaining members present may by motion and vote excuse the member from voting if the member is prohibited from voting under paragraph (b).

(d) Consequence of Non-Excused Failure to Vote. If a member who has not been excused from voting fails to vote on a matter, the member's failure to vote shall be recorded as an affirmative vote, provided

- (1) the member is physically present in the meeting room or
- (2) the member has physically withdrawn from the meeting room without being excused by majority vote of the remaining members present.

Rule 29. Voting by Written Ballot

(a) Secret Ballots Prohibited. The board may not vote by secret ballot.

(b) Rules for Written Ballots. The board may decide by majority vote or unanimous consent to vote on a motion by written ballot. Each member must sign his or her ballot, and the minutes must record how each member voted by name. The ballots must be made available for public inspection in the office of the clerk to the board immediately following the meeting at which the vote took place and remain there until the minutes of that meeting are approved, at which time the ballots may be destroyed.

Rule 30. Substantive Motions

A substantive motion is not in order if made while another motion is pending. Once the board disposes of a substantive motion, it may not take up a motion that presents essentially the same issue at the same meeting, unless it first adopts a motion to reconsider pursuant to Rule 32 (Motion 14 – To Reconsider).

Rule 31. Procedural Motions

(a) Certain Motions Allowed. The board may consider only those procedural motions listed in this rule. Unless otherwise noted, each procedural motion may be debated and amended and requires a majority of votes cast, a quorum being present, for adoption.

(b) Priority of Motions. The procedural motions set out in this paragraph are listed in order of priority. A procedural motion is not in order so long as another procedural motion of higher priority is pending, except that

- any procedural motion other than an appeal under Motion 1 (To Appeal a Ruling of the Presiding Officer) is subject to amendment as provided in Motion 12 (To Amend), and
- a motion to call the question (end debate) may be made with regard to any procedural motion in accordance with Motion 9 (To End Debate[Call the Previous Question]).

When several procedural motions are pending, voting must begin with the procedural motion highest in priority, except that a motion to amend or end debate on the highest priority motion must be voted on first.

Motion 1. To Appeal a Ruling of the Presiding Officer. Any member may appeal the presiding officer's ruling on whether a motion is in order or on whether a speaker has violated reasonable standards of courtesy. The presiding officer's response to a question of parliamentary procedure may also be appealed by any member. An appeal is in order immediately after the disputed ruling or parliamentary response and at no other time. The member who moves to appeal need not be recognized by the presiding officer, and if timely made, the motion may not be ruled out of order.

Motion 2. To Adjourn. This motion may be used to close a meeting. The board must be out of closed session before adjourning any meeting.

Motion 3. To Recess to a Certain Time and Place. This motion may be used to call a recessed meeting as permitted under Rule 13 (Recessed Meetings). The motion must state the time (including the date, if the meeting will reconvene on a different day) and place at which the meeting will resume. The motion is

not in order if the board is in closed session.

Motion 4. To Take a Brief Recess.

Motion 5. To Follow the Agenda. This motion must be made at the time an item of business that deviates from the agenda is proposed; otherwise, the motion is out of order as to that item.

Motion 6. To Suspend the Rules. To be adopted, a motion to suspend the rules must receive affirmative votes equal to at least a quorum of the board. The board may not suspend provisions in these rules that are required under state law.

Motion 7. To Divide a Complex Motion. This motion is in order whenever a member wishes to consider and vote on parts of a complex motion separately. The member who makes this motion must specify how the complex motion will be divided.

Motion 8. To Defer Consideration. The board may defer its consideration of a substantive motion, and any proposed amendments thereto, to an unspecified time. A motion that has been deferred expires unless the board votes to revive it pursuant to Motion 13 (To Revive Consideration) within 100 days of deferral. A new motion having the same effect as a deferred motion may not be introduced until the latter has expired.

Motion 9. To End Debate (Call the Previous Question). If adopted, this motion terminates debate on a pending motion, thereby bringing it to an immediate vote. This motion is not in order until every member has had an opportunity to speak once on the pending motion.

Motion 10. To Postpone to a Certain Time. This motion may be employed to delay the board's consideration of a substantive motion, and any proposed amendments thereto, until a designated day, meeting, or hour. During the period of postponement, the board may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6 (To Suspend the Rules).

Motion 11. To Refer a Motion to a Committee. The board may vote to refer a substantive motion to a committee for study and recommendations. While the substantive motion is pending before the committee, the board may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6 (To Suspend the Rules). If the committee fails to report on the motion within 60 days of the referral date, the board must take up the motion if asked to do so by the member who introduced it.

Motion 12. To Amend.

(a) Germaneness. A motion to amend must concern the same subject matter as the motion it seeks to alter.

(b) Limit on Number of Motions to Amend. When a motion to amend is under consideration, a motion to amend the amendment may be made; however, no more than one motion to amend and one motion to amend the amendment may be pending at the same time.

(c) Amendments to Ordinances. Any amendment to a proposed ordinance must be reduced to writing before the vote on the amendment.

Motion 13. To Revive Consideration. The board may vote to revive consideration of any substantive motion that has been deferred pursuant to Motion 8 (To Defer Consideration), provided it does so within 100 days of its vote to defer consideration.

Motion 14. To Reconsider. The board may vote to reconsider its action on a matter, provided the motion to reconsider is made (a) at the same meeting during which the action to be reconsidered was taken and (b) by a member who voted with the prevailing side. For purposes of this motion, “the same meeting” includes any continuation of a meeting through a motion to recess to a certain time and place (Motion 3 – To Recess to a Certain Time and Place). The motion is not in order if it interrupts the board’s deliberation on a pending matter.

Motion 15. To Rescind. The board may vote to rescind an action taken at a prior meeting provided rescission is not forbidden by law.

Motion 16. To Prevent Reintroduction for [Six] Months. This motion may be used to prevent the reintroduction of a failed substantive motion for a time, but it is in order only when made immediately following the substantive motion’s defeat. To be adopted, this motion must receive affirmative votes equal to at least a quorum of the board. If this motion is adopted, the ban on reintroduction remains in effect for [six] months or until the board’s next organizational meeting in an even-numbered year, whichever occurs first.

Part VIII. Ordinances and Contracts

Rule 32. Introduction of Ordinances

For purposes of these rules, the “date of introduction” for a proposed ordinance is the first date on which the board actually considers the proposed ordinance.

Rule 33. Adoption, Amendment, and Repeal of Ordinances

(a) Form of Proposed Ordinances. The board may not adopt a proposed ordinance unless it has been reduced to writing and distributed to members before the vote is taken.

(b) Adoption of Ordinances Not Subject to Public Hearing Requirements.

- (1) *Approval on date of introduction.* To be adopted at the meeting where first introduced, an ordinance or any action having the effect of an ordinance must receive the affirmative votes of all members of the board. If the measure receives a majority of votes cast on the date of introduction but not the unanimous support of all members, the board must take it up again at its next regular meeting.
- (2) *Approval after date of introduction.* At its first regular meeting following the date of introduction or at any meeting thereafter within 100 days of the date of introduction, the board may adopt the

proposed ordinance or action having the effect of an ordinance by a majority of votes cast, a quorum being present.

(c) Adoption of Ordinances Subject to Public Hearing Requirements.

- (1) *The budget ordinance or budget amendments.* Rule 35 (Adoption of the Budget Ordinance) governs the approval of the budget ordinance and amendments.
- (2) *Other ordinances.* Following a required public hearing on a proposed ordinance, the board may adopt the measure by a majority of votes cast, a quorum being present, regardless of whether the vote occurs on the date of introduction.

(d) Amendment and Repeal of Ordinances. The same voting requirements that govern the adoption of proposed ordinances also apply to the amendment or repeal of an ordinance.

Rule 34. Adoption of the Budget Ordinance

(a) Special Rules for the Adoption or Amendment of the Budget Ordinance. Notwithstanding any provision in general law or any local act,

- (1) the board may adopt or amend the budget ordinance at a regular or special meeting of the board by a majority of those members present and voting, a quorum being present;
- (2) no action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the board; and
- (3) the adoption or amendment of the budget ordinance and the levy of taxes in the budget ordinance are not subject to the provisions of any local act concerning initiative or referendum.

(b) Notice Requirements for Budget Meetings. During the period beginning with the submission of the budget to the board and ending with the adoption of the budget ordinance, the board may hold any special meetings that may be necessary to complete its work on the budget ordinance. Except for the notice requirements of the open meetings law, which continue to apply, no provision of law or these rules concerning the call of special meetings applies during that period, so long as

- (1) each member of the board has actual notice of each special meeting called for the purpose of considering the budget and
- (2) no business other than consideration of the budget is taken up.

(c) No Authority for Closed Sessions. This rule shall not be construed to authorize the board to hold closed sessions on any basis other than the grounds set out in Rule 5 (Closed Session).

Part IX. Public Hearings and Comment Periods

Rule 35. Public Hearings

(a) Calling Public Hearings. In addition to holding public hearings required by law, the board may hold any public hearings it deems advisable. The board may schedule hearings or delegate that responsibility

to county staff members, as appropriate, except when state law directs the board itself to call the hearing. If the board delegates scheduling authority, it must provide adequate guidance to assist staff members in exercising that authority.

(b) Public Hearing Locations. The board may hold public hearings anywhere within the county.

(c) Notice of Public Hearings. Any public hearing at which a quorum of the board is present shall be considered part of a regular or special meeting. Consequently, the relevant notice and related requirements of the open meetings law, as set out in Rules 10 through 13 (Types of Meetings), apply to such hearings. Some statutes mandate additional notice for particular types of hearings, and such notice must be provided together with the notice required by the open meetings law.

(d) Rules for Public Hearings. The board may adopt reasonable rules for public hearings that, among other things,

- fix the maximum time allotted to each speaker,
- provide for the designation of spokespersons for groups of persons supporting or opposing the same positions,
- provide for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the meeting room (so long as arrangements are made, in the case of a hearing subject to the open meetings law, for those excluded from the meeting room to listen to the hearing), and
- provide for the maintenance of order and decorum in the conduct of the hearing.

(e) Continuing Public Hearings. The board may continue any public hearing without further advertisement to a certain time and place, provided the time (including the date, if the hearing will resume on a different day) and place of the continued hearing are announced in open session. Except for hearings conducted pursuant to paragraph (g), if a quorum of the board is not present for a properly scheduled public hearing, the hearing must be continued until the board's next regular meeting without further advertisement.

(f) Conduct of Public Hearings. At the time appointed for the hearing, the chair shall call the hearing to order and proceed to allow public input in accordance with any rules adopted by the board for the hearing. Unless the board votes to extend the hearing, when the time allotted for the hearing expires, or when no one wishes to speak who has not done so, the chair shall declare the hearing closed, and the board shall resume the regular order of business.

(g) Public Hearings by Less Than a Majority of Board Members. Nothing in this rule prevents the board from appointing a member or members to hold a public hearing on the board's behalf, except when state law requires that the board itself conduct the hearing.

Rule 36. Public Comment Periods

(a) Frequency of Public Comment Periods. The board must provide at least one opportunity for public comment each month at a regular meeting.

(b) Rules for Public Comment Periods. The board may adopt reasonable rules for public comment periods that, among other things,

- fix the maximum time allotted to each speaker,
- provide for the designation of spokespersons for groups supporting or opposing the same positions,
- provide for the selection of delegates from groups supporting or opposing the same positions when the number of persons wishing to attend the public comment period exceeds the capacity of the meeting room (so long as arrangements are made for those excluded from the meeting room to listen to the public comment period), and
- provide for the maintenance of order and decorum in the conduct of the public comment period.

(c) Content-Based Restrictions Generally Prohibited. The board may not restrict speakers based on subject matter, as long as their comments pertain to subjects within the board's real or apparent jurisdiction.

Part X. Appointments and Appointed Bodies

Rule 37. Appointments

(a) Appointments in Open Session. The board must consider and make any appointment to another body or, in the event of a vacancy on the board, to its own membership in open session.

(b) Nomination and Voting Procedure for Appointed Bodies. The board shall use the following procedure to appoint individuals to bodies over which it has the power of appointment. The chair shall open the floor for nominations, whereupon board members may put forward and debate nominees. When debate ends, the chair shall call the roll of the members, and each member shall cast a vote for his or her preferred nominee. The voting shall continue until a nominee receives a majority of votes cast during a single balloting.

(c) Nomination and Voting Procedure to Fill a Vacancy on the Board. The procedure described in paragraph (b) shall be used to fill a vacancy on the board, except as superseded by the provisions of G.S. 153A-27 or -27.1. If the county is divided into electoral districts, the person selected to fill the vacancy must reside in the same electoral district as the member being replaced. If the member being replaced was elected as the nominee of a political party, then his or her replacement must belong to the same party.

(d) Multiple Appointments. If the board is making more than one appointment to a body, each member shall have as many votes in each balloting as there are slots to be filled, and the votes of a majority of the total number of members voting shall be required for each appointment. No member may cast more than one vote for the same candidate for the same position during a single balloting.

(e) Vote by Written Ballot. The board may vote on proposed appointments by written ballot in accordance with Rule 30 (Voting by Written Ballot).

Rule 38. Committees and Boards

(a) Establishment and Appointment. The board may establish temporary and standing committees, boards, and other bodies to help carry on the work of county government. Unless otherwise provided by law or the board, the power of appointment to such bodies lies with the board.

(b) Open Meetings Law. The requirements of the open meetings law apply whenever a majority of an appointed body's members gather in person or simultaneously by electronic means to discuss or conduct official business.

(c) Procedural Rules. The board may prescribe the procedures by which the county's appointed bodies operate, subject to any statutory provisions applicable to particular bodies. In the absence of rules adopted by the board, an appointed body may promulgate its own procedural rules, so long as they are in keeping with any relevant statutory provisions and generally accepted principles of parliamentary procedure.

Part XI. Miscellaneous

Rule 39. Amendment of the Rules

These rules may be amended at any regular meeting or at any properly called special meeting for which amendment of the rules is one of the meeting's stated purposes. Any amendment to these rules must be consistent with any relevant statutes and generally accepted principles of parliamentary procedure. To be adopted, a motion to amend these rules must be approved by a majority of the board's members.

Rule 40. Reference to Robert's Rules of Order Newly Revised

The board shall refer to *Robert's Rules of Order Newly Revised* for guidance when confronted with a procedural issue not covered by these rules or state law. Having consulted *Robert's*, the chair shall make a ruling on the issue subject to appeal to the board under Rule 32 (Motion 1 – To Appeal a Ruling of the Presiding Officer).

CABARRUS COUNTY



BOARD OF COMMISSIONERS WORK SESSION

**February 4, 2019
4:00 PM**

AGENDA CATEGORY:

Discussion Items for Action

SUBJECT:

County Manager - Budget for the Sale of Mt. Pleasant Middle School Site

BRIEF SUMMARY:

The County sold the old Mt. Pleasant Middle School site in the fall of 2018 for \$589,024.48. The proceeds were set aside for purchase, design, and construction of park in the north east part of the county. Staff requests to use up to \$100,000 of these funds for the design and construction of a parking lot for the ball fields that currently exist on the portion of the property that was not sold with the middle school site. The remaining \$489,024.48 will continue to be reserved for the design and construction of the park.

REQUESTED ACTION:

Motion to suspend the rules and vote on the item at the work session.

Motion to approve the budget revision and project ordinance.

EXPECTED LENGTH OF PRESENTATION:

5 Minutes

SUBMITTED BY:

Kyle Bilafer, Area Manager of Operations

BUDGET AMENDMENT REQUIRED:

Yes

COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:

Approval is recommended.

ATTACHMENTS:

- ▣ Budget Revision
- ▣ Project Ordinance

Budget Revision/Amendment Request

Date:

Amount:

Dept. Head:

Department:

- Internal Transfer Within Department
 Transfer Between Departments/Funds
 Supplemental Request

Purpose: To record the receipt of moneys from the sales of Mt. Pleasant Middle School. The funds are intended to be used for future park enhancement or new infrasture in the North East Area of the County.

Fund	Indicator	Department/ Object/ Project	Account Name	Approved Budget	Increase Amount	Decrease Amount	Revised Budget
343	6	8140/6801/Plot	Sale of Fixed Assets	100,000.00			100,000.00
343	6	8140/6801/0300	Sale of Fixed Assets/NE Area Park	489,024.48			489,024.48
343	9	8140/9830/Plot	Other Improvements/Parking Lot	100,000.00			100,000.00
343	9	8140/9830/0300	Other Improvements/NE Area Park	489,024.48			489,024.48
							0.00
							0.00
							0.00
							0.00

Total 0.00

Budget Officer

- Approved
 Denied

County Manager

- Approved
 Denied

Board of Commissioners

- Approved
 Denied

Signature

Signature

Signature

Date

Date

Date

CABARRUS COUNTY CONSTRUCTION AND RENOVATION PROJECT BUDGET ORDINANCE

BE IT ORDAINED by the Board of Commissioners of Cabarrus County, North Carolina that, Pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section I.

- A. The project authorized is the various County construction and renovation related projects. Details of the projects are listed in section C. of this Project Ordinance.
- B. The officers of this unit are hereby directed to proceed with this capital project within the terms of the Generally Accepted Accounting Principles (GAAP) and the budget contained herein.
- C. It is estimated that the following revenues will be available to complete capital projects as listed.

Park & Recreation Trust Fund (PARTF) Grant	\$ 350,000
Rental – Tower Lease	847,693
Sale of Fixed Assets	1,012,441
Contributions and Donations	117,036
General Fund Contribution	5,112,456
Lease Proceeds (Robert Wallace Park)	4,596,394
Capital Projects Fund Contribution	2,141,264
Capital Reserve Fund Contribution	13,399,547

TOTAL REVENUES **\$27,576,831**

- D. The following appropriations are made as listed.

Government Center Chiller Replacement	\$211,000
Governmental Center ADA Bathrooms	151,469
ITS Fiber Technology Improvements	120,000
County Website Design	283,750
Furniture Replacements	184,723
County Operation Center	3,100,000
Elevator Modernization Government Center	176,000
Multiple building Fall Protection Measures	300,000
Jail Camera Upgrade	112,607
LEC Law Enforcement Technology	791,324
Training & Firing Range Renovation	50,000
Sheriff's Admin Roof Repair	150,000
Courthouse Expansion	6,100,000
Clerk of Court Improvements	113,000
Public Safety Training Center	90,000
EMS Headquarters – Consultants	50,000
EMS Co-location – Concord Fire #11	375,000
EMS Heart Monitors	550,111
Emergency Communications Equip & Ethernet Backhaul	2,721,086
JM Robinson High School Wetlands Mitigation	100,000
Landfill Retaining Wall	230,301
Veterans Services Improvements	92,674
Cooperative Ext. ADA Bathrooms	118,812

RCCC Land for future expansion	1,244,001
Robert Wallace Park	8,147,964
Frank Liske Park – Barn Restrooms	126,405
Frank Liske Park – Lower Lot Restrooms	678,506
Carolina Thread Trail	109,329
Frank Liske Park Playground Replacement	100,000
NE Area Park - Plot	100,000
NE Area Park – Other Improvements	489,024
Midland Library Furniture	75,000
Arena – Lighting Control System Replacement	235,000
Unassigned	99,745

TOTAL EXPENDITURES **\$27,576,831**

GRAND TOTAL – REVENUES **\$27,576,831**

GRAND TOTAL – EXPENDITURES **\$27,576,831**

Section II.

- A. Special appropriations to non-profit organizations shall be distributed after the execution of an agreement which ensures that all County funds are used for statutorily permissible public purposes.
- B. The County Manager or designee is hereby authorized to transfer appropriations within or between funds, or modify revenue and expenditure projections as contained herein under the following conditions:
 1. The Manager may transfer amounts between objects of expenditure and revenues within a function without limitation.
 2. The County Manager may transfer amounts up to \$500,000 between functions of the same fund.
 3. The County Manager may transfer amounts between contingency funds which are set aside for a specific project for budgetary shortfalls or upon the appropriate approval of a change order.
 4. The County Manager is authorized to transfer funds from the General Fund or Capital Reserve Fund to the appropriate fund for projects approved within the Capital Improvement Plan for the current fiscal year.
 5. Upon notification of funding increases or decreases to existing grants or revenues, or the award of grants or revenues, the Manager or designee may adjust budgets to match, including grants that require a County match for which funds are available.
 6. The Manager or designee may adjust debt financing from estimated projections to actual funds received.
 7. The County Manager may enter into and execute change orders or amendments to construction contracts in amounts less than \$90,000 when the appropriate annual budget or capital project ordinance contains sufficient appropriated but unencumbered funds.
 8. The County Manager may award and execute contracts which are not required to be bid or which G.S. 143-131 allows to be let on informal bids so long as the

annual budget or appropriate capital project ordinance contains sufficient appropriated but unencumbered funds for such purposes.

9. The County Manager may execute contracts with outside agencies to properly document budgeted appropriations to such agencies where G.S. 153 A-248(b), 259, 449 and any similar statutes require such contracts.
10. The County Manager may reject formal bids when deemed appropriate and in the best interest of Cabarrus County pursuant to G.S. 143-129(a).
11. The County Manager may reduce revenue projections consistent with prevailing economic conditions, and also reduce expenditures correspondingly.

Section III.

This ordinance and the budget documents shall be the basis of the financial plan for the County of Cabarrus.

- a. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy the requirements of the law.
- b. The Finance Director is directed to report, at the request of the Board, on the financial status of each project element in Section I and on the total revenues received or claimed.
- c. Copies of this capital project ordinance shall be furnished to the Clerk to the governing Board, and to the Finance Director for direction in carrying out this project.
- d. At the completion of a construction project, all unrestricted excess funds are transferred to the General Fund and the portion of the Capital Project associated with the project is closed.

Adopted this 18th day of February 2019.

CABARRUS COUNTY BOARD OF COMMISSIONERS

BY: _____
Stephen M. Morris, Chairman

ATTEST:

Clerk to the Board

CABARRUS COUNTY



BOARD OF COMMISSIONERS WORK SESSION

**February 4, 2019
4:00 PM**

AGENDA CATEGORY:

Discussion Items for Action

SUBJECT:

County Manager - Proposed Back Creek Greenway

BRIEF SUMMARY:

The Town of Harrisburg has proposed construction of a new greenway along Back Creek. Part of that greenway will be located on the property occupied by Hickory Ridge Middle School and Hickory Ridge High School. The MS property is owned by the County and the HS property by Cabarrus County Schools. The Harrisburg Parks & Recreation Director, Daniel Stines, has presented the greenway plans to the Board of Education and would like to present them to the Board of Commissioners. An Interlocal Agreement Concerning Back Creek Greenway is attached and has already received approval by the Board of Education. In addition, the Town would also like to begin discussions concerning use of a County owned parcel on Stallings Road as parking for the greenway. A map of that property is also attached.

REQUESTED ACTION:

Motion to approve the Interlocal Agreement between Cabarrus County, Cabarrus County Schools and the Town of Harrisburg; and authorize the County Manager to execute the agreement on behalf of Cabarrus County, subject to review or revisions by the County Attorney.

EXPECTED LENGTH OF PRESENTATION:

10 Minutes

SUBMITTED BY:

Jonathan B. Marshall, Deputy County Manager
Daniel Stines, Harrisburg Parks & Recreation Director

BUDGET AMENDMENT REQUIRED:

No

COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:

ATTACHMENTS:

- ▣ Interlocal Agreement
- ▣ Stallings Road property map

STATE OF NORTH CAROLINA

COUNTY OF CABARRUS

INTERLOCAL AGREEMENT
CONCERNING BACK CREEK GREENWAY

This Interlocal Agreement concerning Back Creek Greenway ("Agreement") is made and entered into by and between the Town of Harrisburg ("Town"), the Cabarrus County Board of Education ("BOE") and Cabarrus County ("County").

RECITALS

1. The parties desire to enter into an agreement to extend the Back Creek Greenway across the property of the BOE and the County, known as Hickory Ridge Middle School and Hickory Ridge High School.

2. The parties agree that the part of the Greenway across the property of the BOE and the County shall be constructed in accordance with the Cabarrus County Livable Community Blueprint, Harrisburg Comprehensive Bicycle, Pedestrian Greenways Master Plan, Cabarrus County Comprehensive Bicycle, Pedestrian and Greenways Master Plan, and the Cabarrus County Carolina Thread Trail Master Plan.

In consideration of the above Recitals and the Terms contained below, which the parties agree constitute sufficient consideration to make this Agreement legally binding and enforceable, the parties agree as follows:

TERMS

1. This Agreement shall commence on the date signed by the last of the three parties and shall continue so long as the Back Creek Greenway is located on the property of the BOE and the County.

2. The purpose of this Agreement is to determine the rights, responsibilities, costs and duties between the Town, the BOE and the County as it pertains to the part of the Back Creek Greenway to be located on the property of Hickory Ridge Middle School and Hickory Ridge High School. The Greenway easement shall be 25 feet wide and shall be located as described in the final adopted Back Creek Greenway "Phase 1" Alignment and Feasibility Study. The parties agree that the proposed Greenway section shall follow standard greenway practices to include natural and solid surface trail designs.

3. The parties agree that this section of the Back Creek Greenway will be connected to the other parts of the Greenway as shall be open to the public.

4. The Town shall:

- a) Work cooperatively with BOE and County toward the completion of this project;
- b) Act as the lead entity throughout the process of design, alignment, feasibility and construction documents for the development of the project;

- c) Act as Project Manager on all development, design—both current and future, on the Back Creek Greenway development;
- d) Act in accordance with all applicable local, state and federal laws, codes and ordinances throughout the project;
- e) Be the contracting entity and be responsible for accounting and payment of invoices;
- f) Confer with the County and BOE before approving any changes in the scope of service, alignment or change orders associated with the development of the Back Creek Greenway. The County and BOE understand and agree that no changes to the scope of services or to the costs/fees shall be made without full concurrence from all agencies associated with this Agreement;
- g) Furnish to the County and BOE final and adopted alignments for record;
- h) Be responsible for all maintenance and facility improvements, to include, but not be limited to mowing, blowing, weed-eating, edging, debris removal, repairs, and capital improvements.
- i) Be responsible for constructing and developing the Back Creek Greenway. The Town, County and BOE understand and agree that if certain funding opportunities via grant, donation, etc. become available, the Town maintains the right to research, accept and/or deny such opportunities, as it pertains to Back Creek Greenway and trail development.
- j) Be responsible for any liabilities and/or risks as they are associated with and use of the Back Creek Greenway.

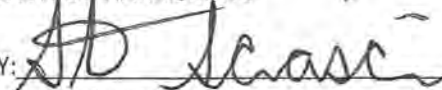
5. The County and BOE shall:

- a) Work cooperatively with the Town toward the completion of this project;
- b) Provide a twenty-five (25) foot easement on the property of Hickory Ridge Middle and High Schools following the alignment as represented in the final and adopted Back Creek Greenway "Phase 1" Alignment and Feasibility Study. It is understood and agreed that the alignment will follow close proximity to Back Creek, maintaining a parallel pattern, remaining out of flood plain wherever possible;
- c) Maintain the agreed upon consensus that the Back Creek Greenway will be open to the general public.

6. This Agreement incorporates and includes all prior negotiations, correspondence, agreements and understandings among the parties as it pertains to the Back Creek Greenway, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document.

IN WITNESS, the parties have executed this Agreement as shown below:

TOWN OF HARRISBURG

BY: 
Mayor

Date: 1-14-19

ATTEST:

Janet Rackley
Town Clerk

This instrument has been preaudited in the manner required by law.

Brian Lee 1.16.19
Finance Director

CABARRUS COUNTY BOARD OF EDUCATION

BY: Arthurs S. Denton
Board Chair

Date: 12/17/2018

ATTEST:

Cheryl M. Javel
Secretary to the Board

This instrument has been preaudited in the manner required by law.

CABARRUS COUNTY

BY: _____
County Manager

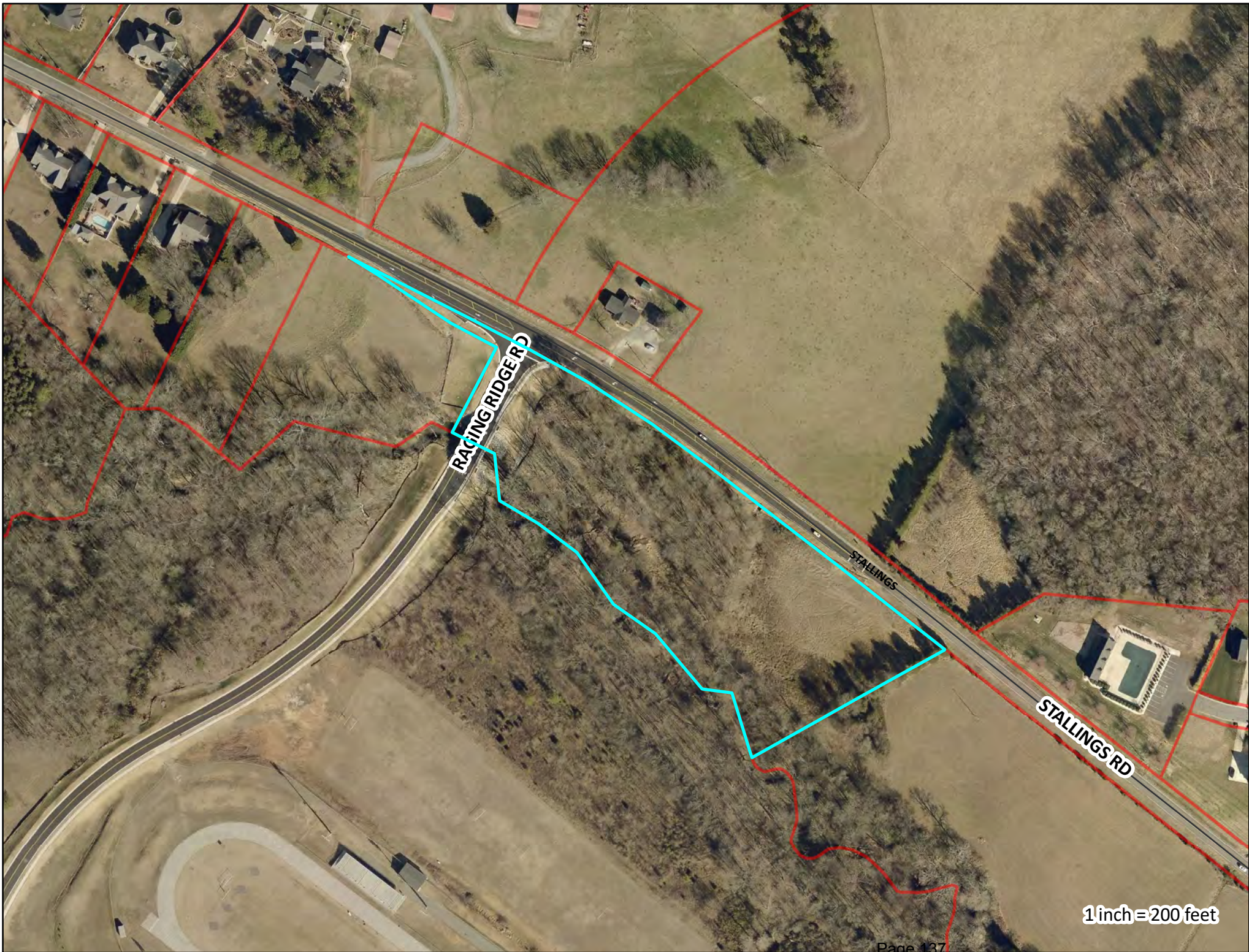
Date: _____

ATTEST:

Clerk

This instrument has been preaudited in the manner required by law.

Finance Director



1 inch = 200 feet

CABARRUS COUNTY



BOARD OF COMMISSIONERS WORK SESSION

**February 4, 2019
4:00 PM**

AGENDA CATEGORY:

Discussion Items for Action

SUBJECT:

County Manager - Raw Water Line Easement at Coddle Creek

BRIEF SUMMARY:

The City of Concord leases a parcel south of the Coddle Creek Reservoir from Cabarrus County. The Coddle Creek Water Treatment Plant is located on that parcel. The lease includes rights for water lines to carry raw water from the reservoir to the treatment plant. The City is planning a new raw water line which requires additional easements on the north side of NC 73 outside of the area included in the existing lease agreement. An easement agreement and maps for permanent and temporary easements is attached.

REQUESTED ACTION:

Motion to approve the agreement between Cabarrus County and the City of Concord; and authorize the Chairman to execute the agreement on behalf of Cabarrus County, subject to review or revisions by the County Attorney.

EXPECTED LENGTH OF PRESENTATION:

1 Minute

SUBMITTED BY:

Jonathan B. Marshall, Deputy County Manager

BUDGET AMENDMENT REQUIRED:

No

COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:

ATTACHMENTS:

- Raw Water Line Easement Agreement and Maps

January 22, 2019

Cabarrus County
PO Box 707
Concord, NC 28026
Parcel ID#4692.11.3936

Dear Property Owner:

The City of Concord is acquiring "Permanent Easement along with a Temporary Construction Easement" for a proposed 36" Raw Water Improvement project in your area.

I am reaching out to you to discuss the project and to answer any questions or concerns that you may have.

Enclosed is the proposed "Permanent Easement and Temporary Construction Easement" for your review.

Please review the easement documents and contact me at your earliest convenience. If there are no questions or concerns moving forward, please execute the enclosed documents and return to me in the return addressed envelope provided.

Right of Way Agent: **Charity Langston**, (704) 920-5409.

Thank you in advance for your cooperation.

Sincerely,

Charity Langston
Right of Way Agent

Drawn By VaLerie Kolczynski, Attorney
Return to City of Concord, ROD Box

STATE OF NORTH CAROLINA

COUNTY OF CABARRUS

PIN #4692-11-3936

Grant of Permanent Easements and
Temporary Construction Easements to
CITY OF CONCORD

The undersigned Grantor, Cabarrus County, a body politic and political subdivision of the State of North Carolina, in consideration of payment to the Grantor of the sum of One Dollar, (\$1.00), the receipt and sufficiency of which is hereby acknowledged, does hereby grant, bargain, sell and release unto the City of Concord, a North Carolina municipal corporation ("Grantee"), its successors, assigns and licenses, the right, privilege, and easements to enter and re-enter at any time and to install, dig, build, erect, maintain, repair, rebuild, operate, and patrol one or more public utilities, over ground or underground, including but not limited to water infrastructure, underground pipes, utility lines, any and all related fixtures or appurtenances; the right to clear the easement area and keep it clear of brushes, trees, buildings, obstructions, and fire hazards; and the right to remove trees, if any, located beyond the limits of the easement areas, but also which interfere with the utility easements or the easement areas; the above described rights being incident to performance by the Grantee of its functions as a municipality or as the operator of a public utilities system, or the performance by any contractor, agent or licensee of the Grantee of any public utilities functions, the premises being located in No. 3 Township, Cabarrus County, North Carolina and as shown on "**Exhibit A**" titled "Proposed Easement for Utility Easements to Serve the Coddle Creek Water Treatment Plant Project Coddle Creek Supply Improvements".

For further reference, see attached "**Exhibit B**" titled "Proposed 36" Raw Water Improvements" (Sheets 1 through 4) prepared by McKim & Creed on 1/03/2019.

The Grantor, does hereby grant, bargain, sell and release unto the City of Concord, a North Carolina Municipal Corporation ("Grantee"), its successors, assigns and licensees a temporary construction easements to enter and re-enter during the construction of the project in order to install, dig, build, erect, maintain, repair, rebuild, operate, and patrol one or more public utilities, over ground or underground, including but not limited to water utility lines, underground pipes, other public utility lines, all related utility fixtures and appurtenances in the rights-of-way or

easements immediately adjacent to and contiguous with this temporary construction easement, the above described rights being incident to performance by the Grantee or any agent of its functions as a municipality or as the operator of any public utilities system, or the performance by any licensee of the Grantee of any public utilities functions, the premises to be affected as shown on "**Exhibit A**" titled "Proposed Easement for Utility Easements to Serve the Coddle Creek Water Treatment Plant Project Coddle Creek Supply Improvements".

For further reference, see attached "**Exhibit B**" titled "Proposed 36" Raw Water Improvements" (Sheets 1 through 4) prepared by McKim & Creed on 1/03/2019.

The property described herein is subject to all rights-of-way, easements and restrictions of record.

The Grantor by the execution of this instrument, acknowledge the plans for the above referenced project as it affects the remaining property have been fully explained to them or their authorized representative(s).

Together with any and all rights normally incident thereto, and particularly the right of ingress and egress thereto from time to time as necessary for construction, reconstruction, enlargement and/or maintenance.

To have and to hold the same unto the City of Concord, its successors and assigns forever as to the permanent easement and to have and to hold the same unto the City of Concord, its successors and assigns during the construction of the project and its immediate environs as to the temporary construction easement.

For purposes of this easement, Temporary Construction Easement is defined as being used during the time of construction for grading, access, repair, and other activities related to the construction of the project and its immediate environs and shall expire upon completion and acceptance of the said project.

This agreement shall not be interpreted to impose any duty on the City of Concord, its successors and assigns to install any utilities by any particular date or within any particular time frame.

This property right may be assigned by the Grantee, or its successors.

The Grantor shall have the right to use the above-described strip of property for purposes not inconsistent with Grantee's full enjoyment of the rights hereby granted, provided that the Grantor shall not erect or construct any building or other structure thereon; maintain or permit any underground or over ground system of piping, poles or wiring within such strip; make any use of the facilities installed, buried, erected, or constructed thereon; or drill or operate any well or septic system within such strip, without the express written permission of the Grantee.

IN WITNESS WHEREOF these presents have been duly executed under seal by the Grantor on this, the _____ day of _____, 2019.

GRANTOR:

Cabarrus County, a body politic and political
subdivision of the State of North Carolina

By: _____
Stephen Morris, Chairman of the
Board of County Commissioners

ATTEST:

Lauren Linker, Clerk to the Board

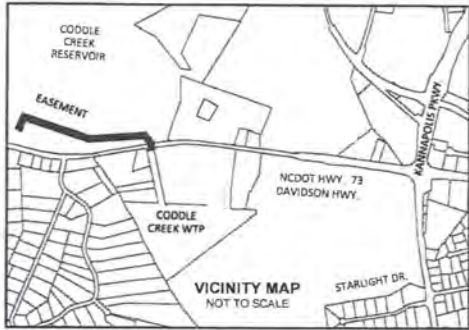
[SEAL]

**CABARRUS COUNTY
STATE OF NORTH CAROLINA**

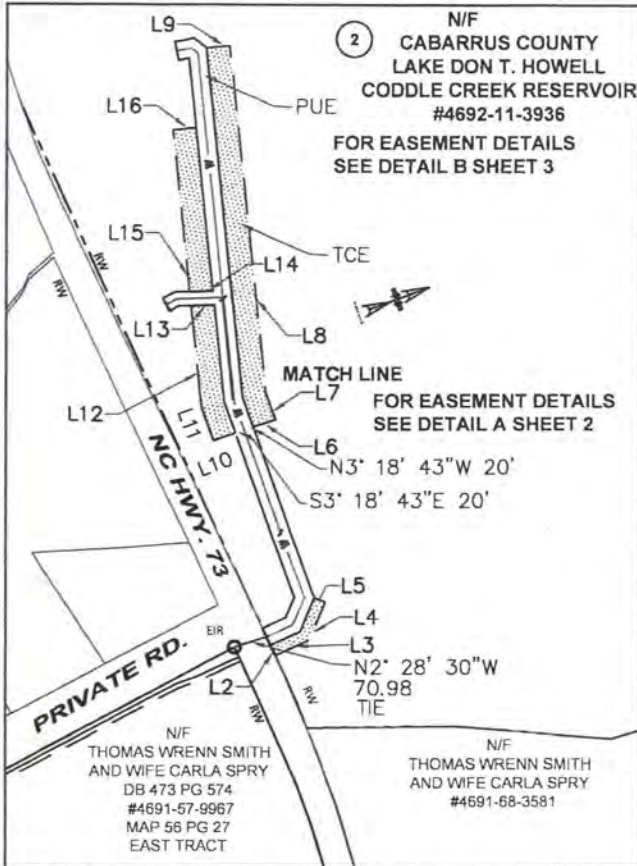
I, _____, a Notary Public of the aforesaid County and State, do hereby certify that Lauren Linker personally appeared before me this day and acknowledged that she is the Clerk to the Board of Commissioners for Cabarrus County and that by authority duly given and as the act of the body politic and political subdivision of the State of North Carolina, the foregoing instrument was signed in its name by its Chairman, sealed with its corporate seal and attested by her as its Clerk to the Board.

WITNESS my hand and notarial seal, this the ____ day of _____, 2019.

Notary Public
My commission expires: _____



LEGEND
 EXISTING IRON OR ROD FOUND ○ EIP EIR
 ○ RW
 PUE PERMANENT UTILITY EASEMENT
 TCE TEMPORARY CONSTRUCTION EASEMENT
 PROPERTY LINE - - - - -
 ADJOINER LINE - - - - -
 AREA PARCEL 1,871.83 ACRES
 AREA PERMANENT UTILITY EASEMENT 58,371 SF 1.34 ACRES
 AREA TEMPORARY CONSTRUCTION EASEMENT 77,098 SF 1.77 ACRES



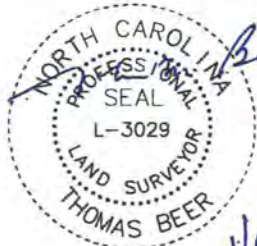
TEMPORARY CONSTRUCTION EASEMENT LINE TABLE

Line #	Length	Direction
L2	25.00	N81° 01' 03"E
L3	80.19	N8° 58' 57"W
L4	88.20	N51° 28' 53"W
L5	25.00	S38° 31' 07"W
L6	50.00	N3° 18' 43"W
L7	63.16	S86° 41' 17"W
L8	749.83	N80° 00' 59"W
L9	50.00	S9° 59' 01"W
L10	50.00	S3° 18' 42"E
L11	79.47	S86° 41' 17"W
L12	218.16	N80° 00' 59"W
L13	50.13	N14° 03' 50"E
L14	50.13	S14° 03' 50"W
L15	352.01	N80° 00' 59"W
L16	50.00	N9° 59' 01"E

NOTE: Property corners shown circled were located by actual survey. All distances are horizontal distances unless otherwise noted. Bearings and distances shown are NC Grid Nad 83

FOR 40' & 30' PERMANENT UTILITY EASEMENTS SEE DETAIL C SHEET 4

This map was prepared from an actual field survey performed by McKIM & CREED for the purpose of easement acquisition only, and is not to be construed to be a boundary survey of the property shown.

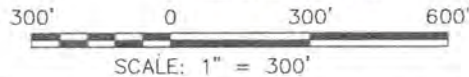


1/03/2019



8020 Tower Point Drive
 Charlotte, North Carolina 28227
 Phone: (704)841-2588, Fax: (704)841-2567
 AA0002667 EB0006591
 F-1222
 www.mckimcreed.com
 JOB No 0122003

[Signature]
 N.C. Professional Land Surveyor L-3029

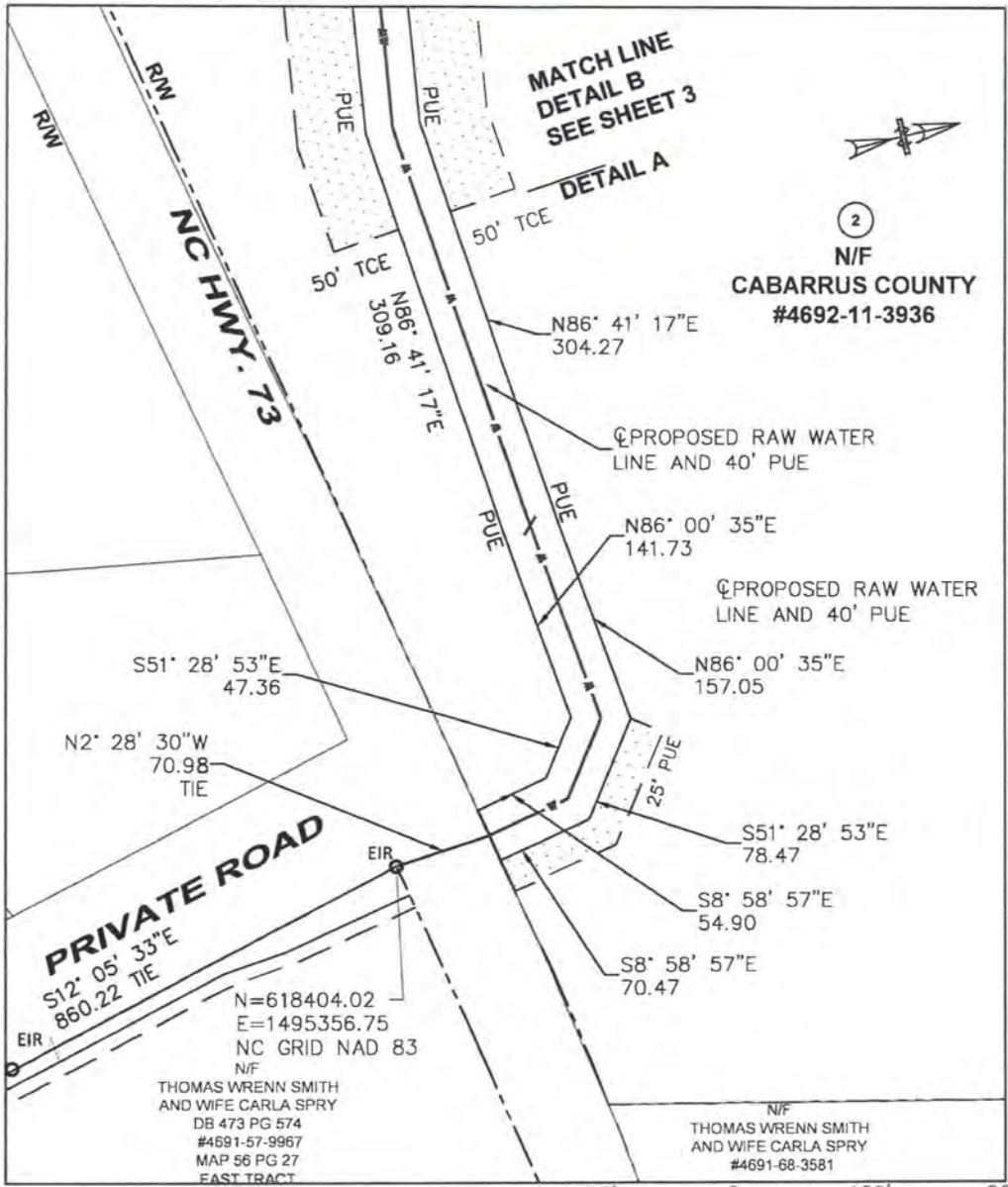
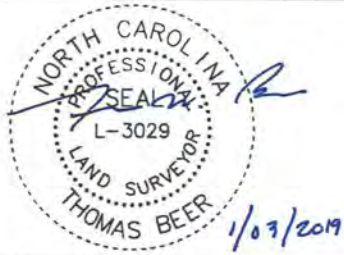


CITY OF CONCORD
 WATER RESOURCES
 CONCORD, NORTH CAROLINA

PROPOSED 36" RAW WATER IMPROVEMENTS

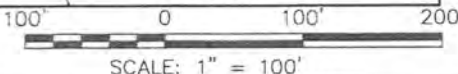
PROPERTY OF CABARRUS COUNTY

McK&C	TMB	TMB	CES	PJ	Sheet	Of
Surveyed By	Designed By	Drawn By	Project Eng.	Approved By	Date	1 4



2

N/F
CABARRUS COUNTY
#4692-11-3936



DETAIL A

NOTE: Property corners shown circled were located by actual survey. All distances are horizontal distances unless otherwise noted. Bearings and distances shown are NC Grid Nad 83

McKIM & CREED
8020 Tower Point Drive
Charlotte, North Carolina 28227
Phone: (704)841-2588, Fax: (704)841-2567
AA0002667 EB0006891
F-1222
www.mckimcreed.com
JOB No 0122003

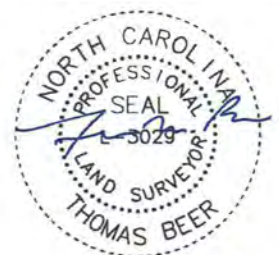
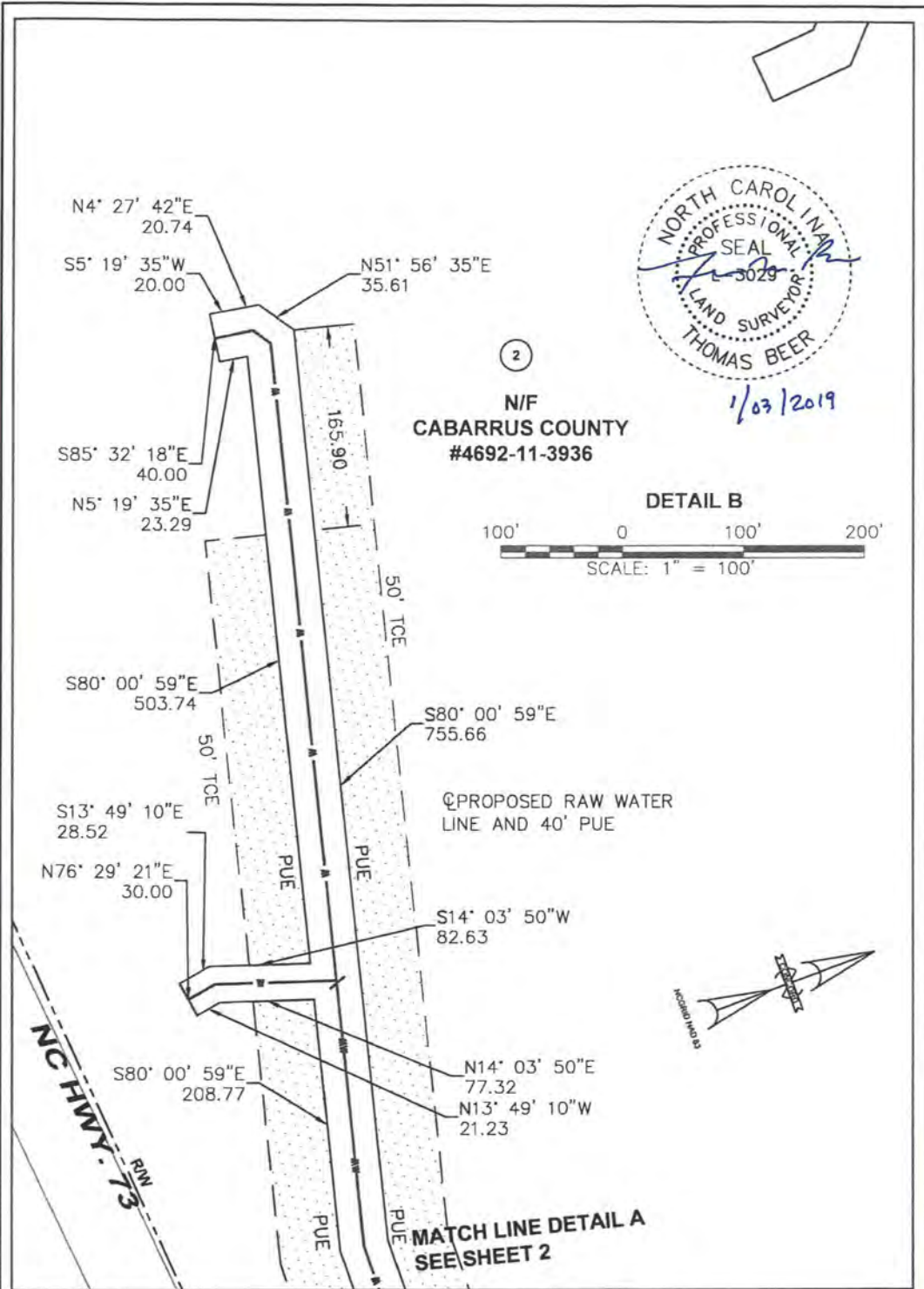
CITY OF CONCORD
WATER RESOURCES
CONCORD, NORTH CAROLINA

PROPOSED 36" RAW WATER IMPROVEMENTS

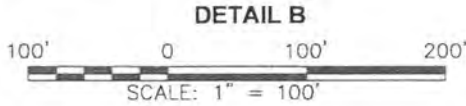
PROPERTY OF
CABARRUS COUNTY

2

McK&C Surveyed By	TMB Designed By	TMB Drawn By	CES Project Eng	PJ Approved By		Sheet 2	Of 4
----------------------	--------------------	-----------------	--------------------	-------------------	--	------------	---------



N/F
 CABARRUS COUNTY
 #4692-11-3936



DETAIL B

NOTE: Property corners shown circled were located by actual survey. All distances are horizontal distances unless otherwise noted. Bearings and distances shown are NC Grid Nad 83

MCKIM & CREED
 8020 Tower Point Drive
 Charlotte, North Carolina 28227
 Phone: (704)841-2588, Fax: (704)841-2567
 AA0002667 EB0006591
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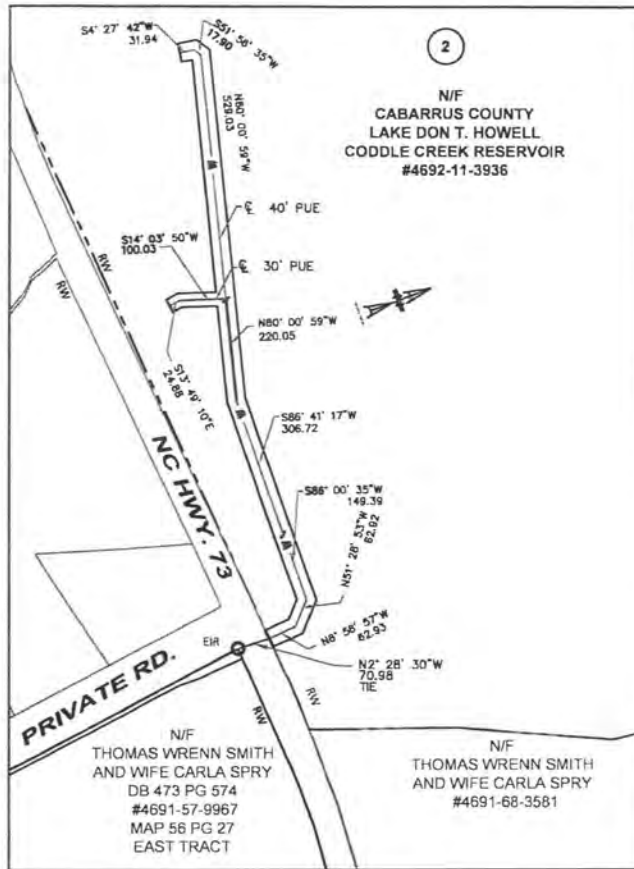
CITY OF CONCORD
 WATER RESOURCES
 CONCORD, NORTH CAROLINA

PROPOSED 36" RAW WATER IMPROVEMENTS

PROPERTY OF
 CABARRUS COUNTY

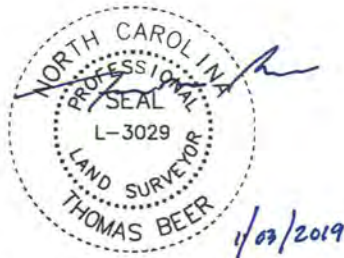
2

MCK&C	TMB	TMB	CES	PJ		Sheet	Of
Surveyed By	Designed By	Drawn By	Project-Eng	Approved By	Date	3	4

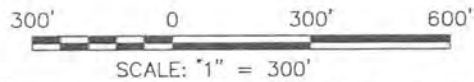


DETAIL CENTERLINES
PERMANENT UTILITY EASEMENTS

NOTE: Property corners shown circled were located by actual survey. All distances are horizontal distances unless otherwise noted. Bearings and distances shown are NC Grid Nad 83



8020 Tower Point Drive
Charlotte, North Carolina 28227
Phone: (704)841-2588, Fax: (704)841-2567
AAD002667 EB0006691
F-1222
www.mckimcreed.com
JOB No. 1122023



CITY OF CONCORD	
WATER RESOURCES CONCORD, NORTH CAROLINA	
PROPOSED 36" RAW WATER IMPROVEMENTS	
PROPERTY OF CABARRUS COUNTY	
2	
MCK&C	TMB
Surveyed By	Designed By
TMB	CES
Drawn By	Project-Cog
PJ	Approved By
	Date
Sheet	OF
4	4

EXHIBIT A

PROPOSED EASEMENT FOR UTILITY EASEMENTS TO SERVE THE CODDLE CREEK WATER TREATMENT PLANT PROJECT CODDLE CREEK SUPPLY IMPROVEMENTS

Being a tract of land located in Cabarrus County, North Carolina, said tract owned by Cabarrus County and is also known as Lake Don T. Howell/Coddle Creek Reservoir Parcel number 4692-11-3936 Cabarrus County Registry of deeds; containing 1,871.83 Acres of land more or less, as shown on an attached maps prepared by McKim & Creed Inc. entitled "Proposed 36" Raw Water Improvements".

PERMANENT 40 FOOT UTILITY EASEMENT DESCRIPTION

Commencing at an existing iron rod found at the easterly margin of a private road as recorded in Map 36 Page 22 and its intersection of the southerly margin of NC Hwy 73; thence North 2° 28' 30" West a distance of 70.98 feet to a point in the Northerly margin of NC Hwy. 73, said point being the Point of Beginning and centerline of a 40 foot wide Permanent Utility Easement; thence along the centerline North 8° 58' 57" West a distance of 62.93 feet to a point; thence along the centerline North 51° 28' 53" West a distance of 62.92 feet to a point; Thence South 86° 00' 35" West a distance of 149.39 feet to a point; thence South 86° 41' 17" West a distance of 306.72 feet to a point; thence North 80° 00' 59" West a distance of 220.05 feet to a point, said point being the intersection of the centerlines of said 40 foot permanent and a 30 foot Permanent Utility Easement; thence continuing along said 40 foot permanent easement North 80° 00' 59" West to a point a distance of 529.03 feet; thence South 51° 56' 35" West a distance of 17.90 feet to a point; thence South 4° 27' 42" West a distance of 31.94 feet to the end of said 40 foot centerline.

PERMANENT 30 FOOT UTILITY EASEMENT DESCRIPTION

Beginning at the center line intersection of the 40 foot permanent and a 30 foot permanent easement as described; thence along the said 30 foot easement South 14° 03' 50" West a distance of 100.03 feet to a point; thence continuing along said centerline South 13° 49' 10" East a distance of 24.88 feet to the end of the centerline of said easement.

Permanent 40 foot and 30 foot Utility Easements contain a total of 58,371 sq. ft (1.34 acres) more as less as shown on attached easement exhibit maps entitled "Proposed 36" Raw Water Improvements" as prepared by McKim and Creed Inc.

TEMPORARY CONSTRUCTION EASEMENTS (TCE) DESCRIPTIONS

TCE Area 1

In addition to the described Permanent Utility Easement a 25 foot parallel Temporary Construction Easement is described as follows: Beginning at the northerly margin of NC Hwy and the Easterly margin of said 40 foot Permanent Utility Easement and thence; North East 81° 01' 03" a distance of 25 foot (L2) to the easterly margin of said Temporary Construction Easement thence; continuing along said margin North 8° 58' 57" West a distance of 80.19 feet (L3) to a point; thence North 51° 28' 53" West a distance of 88.20 feet (L4) to a point thence; South 38° 31' 07" West a distance of 25.00 feet (L5) to a point on the easterly margin of said 40 foot Permanent Utility Easement.

TCE Area 2

In addition to the described Permanent Utility a 50 foot Temporary Construction Easement parallel to the northerly margin of said 40 foot Permanent Utility Easement an is described as follows; Commencing at the intersection of the centerlines of the 40 foot and 30 foot Permanent Utility Easement as described thence; South 80° 00' 59" East along the centerline of the described 40 foot Permanent Utility Easement a distance of 220.05 feet to a point thence continuing; South 86° 41' 17" East a distance of 71.31 feet to a point; thence North 3° 18' 43" West a distance of 20 feet of a point on the Northerly margin of said 40 foot easement said point being Point of Beginning of a margin for a 50 foot Temporary Construction Easement thence North 3° 18' 43" West a distance of 50 feet (L6) to a point; thence South 86°41' 17" West a distance of 63.16 feet (L7) to a point; thence North 80° 00' 59" West a distance of 749.83 feet (L8) to a point; thence; South 9° 59' 01" West a distance of 50.00 feet (L9) to a point on the northerly margin of said 40 foot Permanent Utility Easement.

TCE Area 3

In addition to the described Permanent Utility Easement a 50 foot Temporary Construction Easement parallel to the southerly margin of said Permanent Utility Easement and is described as follows: Commencing at the intersection of the centerlines of the 40 foot and 30 foot Permanent Utility Easement as described; thence South 80° 00' 59" East along the centerline of the described 40 foot Permanent Utility Easement a distance of 220.05 feet to a point; thence continuing; South 86° 41' 17" East a distance of 71.31 feet to a point thence; South 3° 18' 43" West a distance of 20 feet of a point on the Northerly margin of said 40 foot easement said point being Point of Beginning of a margin for a 50 foot Temporary Construction Easement thence; South 3° 18' 42" East a distance of 50 feet (L10) to a point; thence South 86° 41' 17" East a distance of 79.47 feet (L11) to a point thence; North 80° 00' 59" West a distance of 218.16 feet (L12) to a point on the easterly margin of said described 30 foot Permanent Utility Easement thence; North 14° 03'50" East a distance of 50.13 feet (L13) to a point southerly margin of said 40 foot Permanent Easement.

TCE Area 4

In addition to the above described Permanent Utility Easement a 50 foot Temporary Construction Easement parallel to the southerly margin of said is described as follows; Beginning at the intersection of the southerly margin of said 40 ft permanent and westerly margin of said 30 foot easement; thence along the said westerly margin; South 14° 03' 50" West a distance of 50.13 feet (L14) to a point; thence along said southerly margin N 80° 00' 59" West a distance of 352.01 feet (L15) to a point; thence along the westerly margin of said 50 foot temporary construction easement to a point; North 9° 59' 01" East a distance of 50 feet (L16) to a point on the southerly margin of the described 40 foot Permanent Utility Easement.

Total area of Temporary Construction Easements 1,2,3 & 4 contain a total of 77,098 sq. ft (1.77 acres) more as less as shown on attached easement exhibit maps entitled "Proposed 36" Raw Water Improvements" as prepared by McKim and Creed Inc.

end



CABARRUS COUNTY



BOARD OF COMMISSIONERS WORK SESSION

**February 4, 2019
4:00 PM**

AGENDA CATEGORY:

Discussion Items for Action

SUBJECT:

DHS - Transportation 5310 Elderly and Handicapped Grant

BRIEF SUMMARY:

The City of Concord North Carolina is the designated recipient of the Federal 5310 Elderly and Handicapped Grant. Cabarrus County Transportation has been awarded funding from this Grant by the City of Concord. The total Grant amount of \$170,182 will be used to fund transportation for the elderly population within the urban area of Cabarrus County. There is a 50% match of \$85,091. The match will be made with funding from the 5310 portion of the ROAP (Rural Operating Assistance Program) as well as the HCCBG (Home Care Community Block Grant).

REQUESTED ACTION:

Hold a public hearing.

Motion to accept the grant and authorize the budget officer to prepare the appropriate budget amendment if needed.

EXPECTED LENGTH OF PRESENTATION:

5 Minutes

SUBMITTED BY:

Robert Bushey, Transportation Manager

BUDGET AMENDMENT REQUIRED:

No

COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:

Approval is recommended.

ATTACHMENTS:

- ▣ Grant Funding Letter
- ▣ Sub recipient agreement
- ▣ Disclosure of Lobbying
- ▣ Ex A
- ▣ Ex B
- ▣ Ex C

July 5, 2018

Cabarrus County Transportation
Robert Bushey/Anthony Hodges
1303 South Cannon Blvd
Kannapolis, NC 28083

RE: Elderly and Handicapped Transportation

Dear Subrecipient:

The City of Concord, as the designated recipient of Federal Transit Administration (FTA) funds for the Cabarrus-Rowan Urbanized Area, is pleased to announce that we will make an application for FTA in the amount of \$107,093 to support the above referenced project. By accepting these federal funds, your organization will be recognized as a subrecipient and, as such, is subject to all FTA federal requirements.

I have been assigned as the City of Concord's project manager for project oversight and will coordinate the process with you. The subrecipient agreement will be processed concurrently with the federal application to help shorten the process; however, no agreement can be executed until the federal award is received.

Please note that Certifications and Assurances must be completed annually for the duration of your active grant. All organizations are required to certify compliance with numbers one and three. If other certifications apply to this project and your organization, you also should certify those.

Once the application is processed and awarded, City of Concord will be able to enter into a subrecipient agreement with your organization. Until the Subrecipient agreement is signed, you do not have funding.

I look forward to working with you throughout the grant process.

Regards,



Dana Hood
5310 Program Manager

Finance

Phone (704) 920-5200 • Fax (704) 788-9375

STATE OF NORTH CAROLINA
COUNTY OF CABARRUS

SECTION 5310
GRANT AGREEMENT
NO. 6288-2018-1-P1

THIS AGREEMENT is made this the ____ day of _____, 2018 (herein “Effective Date”), by and between the CITY OF CONCORD (herein “City”), and Cabarrus County (herein “Subrecipient”) (collectively, the “Parties”) for a transit project for seniors and individuals with disabilities in the Concord Urbanized Area (“Concord UZA”). The parties acknowledge and agree that the Effective Date of this Agreement is October 1, 2018 and that all terms and conditions have been in force and effect from the Effective Date.

WHEREAS, Section 16 of the Federal Transit Act, 49 U.S.C. § 5310, provides formula funding to states and designated recipients to improve mobility for seniors and individuals with disabilities (“Section 5310”); and

WHEREAS, the Federal Transit Administration (the “FTA”) has designated the City of Concord as a grant recipient for capital and operating grants for Federal funds ; and

WHEREAS, the Governor of North Carolina designated the City of Concord, as the “designated recipient” of Section 5310 funds for the Concord UZA with the responsibility of evaluating and selecting Projects proposed by eligible subrecipients for Section 5310 funds; and

WHEREAS, the Parties desire to secure and utilize Section 5310 grant funds for operation of new or expanded transportation services to meet the special needs of seniors and individuals with disabilities.

NOW, THEREFORE, in consideration of the mutual covenants herein set forth, the Parties agree as follows.

AGREEMENT

1. **Purpose.** The purpose of this Agreement is to provide the Subrecipient with operating assistance for the Section 5310 Project prepared, endorsed, approved, and transmitted by the Subrecipient to the City (the “Project”), and to state the terms, conditions, and mutual undertakings of the Parties as to the manner in which the Project will be undertaken and completed.
2. **Project Implementation.** Subrecipient agrees to carry out the Project as follows:
 - 2.1 **Scope.** Subrecipient shall undertake and complete the Project in accordance with the procedures and guidelines set forth in the following documents, to the extent applicable:
 - a. Federal Transit Administration (“FTA”) Circular 5010.1D, “Grant Management Requirements”, dated August 27, 2012;
 - b. FTA Circular 9045.1, “9070.1G Enhanced Mobility of Seniors and Individuals with Disabilities Program Guidance and Application Instructions”, dated May 1, 2007;
 - c. FTA Circular 4710.1, “Americans with Disabilities Act Guidance”;
 - d. FTA Circular 4702.1B, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients”;

- e. FTA Circular 4703.1, “Environmental Justice Policy Guidance for Federal Transit Administration Recipients”;
- f. FTA Circular 4704, “Equal Employment Opportunity Program Guidelines for Grant Recipients”;
- g. FTA Master Agreement, dated October 1, 2015;
- h. FTA Circular 4220.1F, “Third Party Contracting Guidance”, dated March 13 14, 2013;
- i. The State Management Plan for Federal and State Transportation Programs (“State Management Plan”);
- j. The Coordinated Transportation Plan for Cabarrus County; and
- k. Subrecipient’s Project Documents attached and incorporated herein as Exhibit A.

The aforementioned documents, and any subsequent amendments or revisions thereto, are herewith incorporated by reference, and are on file with and approved by the City in accordance with the terms and conditions of this Agreement. Nothing shall be construed under the terms of this Agreement by the City or Subrecipient that shall cause any conflict with Local, State, or Federal statutes, rules, regulations or ordinances.

3. Definitions. Unless otherwise defined herein, the following terms shall have the meaning set forth below:

- 3.1 City or Direct Recipient means the City of Concord.
- 3.2 Applicant, or Subrecipient means Cabarrus County.
- 3.3 DOT means the U.S. Department of Transportation
- 3.4 FTA means the Federal Transit Administration
- 3.5 Grant Funds means the FTA funds provided by the City for Subrecipient’s Section 5310 Project.
- 3.6 NCDOT means the North Carolina Department of Transportation.
- 3.7 OMB means the United States Office of Management and Budget.
- 3.8 Prior Approval means securing the City’s written permission prior to taking action or incurring a certain cost.

4. Incorporation of Exhibits. The following Exhibits are attached to this Agreement and are incorporated into and made a part of this Agreement by reference:

- Exhibit A: Subrecipient’s Project Documents
- Exhibit B: Federal Certifications
- Exhibit C Section 5310 Program Management Plan

Each reference to this Agreement shall be deemed to include all Exhibits. Any conflict between any provisions of this Agreement shall be resolved as follows:

- Any clause required by Federal law shall control over all Agreement provisions;
- All Exhibits shall be inferior to the Agreement provisions and each Exhibit shall control over each subsequent Exhibit as delineated by this subsection.

5. **Description of Project.** Subrecipient shall perform the services described in Exhibit A attached to this Agreement and incorporated herein by reference (herein “Project”) except that any reference in Exhibit A to a period of performance shall be changed to the Period of Performance referenced in Section 8 of this Agreement. Unless otherwise provided in Exhibit A, Subrecipient shall obtain and provide all labor, materials, equipment, transportation, facilities, services, permits, and licenses necessary to perform the Project.

5.1. **Agreement Modification.** In the event that the City desires to alter the terms of this Agreement, or desires a reduction, expansion, or modification of the Project or the Section 5310 Program that includes an alteration of the terms of this Agreement, the City shall issue to Subrecipient a written notification, which specifies such reduction, expansion, or modification. Within fifteen (15) days after receipt of the written notification, Subrecipient shall provide the City with a detailed proposal with a detailed cost or cost reduction and schedule proposal for the alteration. This proposal shall be accepted by the City or modified by negotiations between Subrecipient and the City and, thereafter, both parties shall execute a written Agreement Modification.

Unless specified in a written Agreement Modification, no change, reduction, modification or expansion of the Project within or beyond the scope of this Agreement shall serve to modify the terms and conditions of this Agreement.

6. **Cost of Project.** The total cost of the Project approved by the City is set forth in the Subrecipient’s Project Documents, incorporated into this Agreement as Exhibit A.

6.1 **City Share.** The City shall provide, from Federal funds, Eighty Percent (80%) of the actual net operating costs of the Project (“City’s Share”), not to exceed eighty five thousand ninety-one dollars. (\$85,091.00).

6.2 **Subrecipient Share.** Subrecipient shall provide Twenty Percent (20%) of the actual net operating costs of the Project as defined in Subrecipient’s Project Documents and any amounts in excess of the City’s Total Share (“Subrecipient’s Share”). Subrecipient shall initiate and prosecute to completion all actions necessary to enable it to provide its share of the Project costs. The City shall periodically audit the revenues for consistency with Subrecipient’s Project Documents. Non-cash contributions to Subrecipient’s Share, such as donations, volunteer services, or in-kind contributions, may only be counted if the contribution is for an eligible cost under the Section 5310 program and it was included in the Subrecipient’s In-Kind Valuation Plan approved by the City. The value of in-kind contributions must be documented and supported. The net cost is the price paid minus any refunds, rebates, or other items of value received by Subrecipient which have the effect of reducing the actual cost.

7. **Grant Disbursements.** Each month Subrecipient shall submit an invoice to the City as part of its required Reimbursement Request detailing all direct and indirect costs (if previously approved) incurred pursuant to this Agreement, as further detailed in Exhibit A.

7.1. Subrecipient shall not charge the City overtime rates (as defined by the Fair Labor Standards Act), regardless of the number of hours worked in a given day or week.

7.2. All reimbursable expenses submitted by Subrecipient must comply with the City’s requirements; the OMB’s “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 200 and the U.S. DOT’s implementing regulations, 2 CFR Part 1201; and Part 30 of the Federal Acquisition Regulations (FAR).

- 7.3. The City shall disburse the City's Share within thirty (30) days of each valid Reimbursement Request and Quarterly Progress Report and Quarterly Financial Status Report for each quarter submitted by Subrecipient until it has disbursed the entire City Share of the Project Costs. Subrecipient shall continue with its reporting requirements until completion of the Project regardless of when the City makes its final payment obligation.
 - 7.4. The City's determination on whether an incurred cost is allowable, allocable, and reasonable under federal regulations shall be final and conclusive.
 - 7.5. Employment Taxes and Employee Benefits. Subrecipient acknowledges and agrees that its employees and subcontractors are not employees of the City. Subrecipient represents, warrants, and covenants that it will pay all withholding tax, social security, Medicare, unemployment tax, worker's compensation and other payments and deductions which are required by law in connection with the Project.
8. **Period of Performance.** This Agreement shall commence upon the date of execution, unless specific written authorization from the City to the contrary is received. The period of performance for all expenditures shall extend from **October 1, 2018 through March 30, 2023.** Subrecipient shall commence, carry on, and complete the approved Project in a sound, economical, and efficient manner.
9. **Accounts and Records.**
- 9.1. **Establishment and Maintenance of Accounting Records.** Subrecipient shall establish and maintain separate accounts for the Project, either independently or within its existing accounting system, to be known as the Project Account. Subrecipient shall use the Grant Funds only for the purposes of the Project and for no other purpose. The accounting system shall be capable of segregating, identifying and accumulating the allocable Project costs. Subrecipient shall maintain complete and accurate records, using Generally Accepted Accounting Principles, of all costs related to this Agreement.
 - 9.2. **Documentation of Project Costs.** All charges to the Project Account shall be supported by properly executed invoices, contracts, or vouchers evidencing in detail the nature and the propriety of the charges and shall adhere to the standards established by the OMB's "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR Part 200 and the U.S. DOT's implementing regulations, 2 CFR Part 1201.
 - 9.3. **Allowable Costs.** Expenditures made by Subrecipient shall be reimbursed by the City as allowable costs to the extent they meet the following requirements:
 - a. Made in conformance with the Project Description and the Project Budget and all other provisions of this Agreement;
 - b. Necessary in order to accomplish the Project;
 - c. Reasonable in amount for the goods or services purchased;
 - d. Actual net costs to Subrecipient (i.e., the price paid minus any refunds, rebates, or other items of value received by Subrecipient which have the effect of reducing the cost actually incurred);
 - e. Incurred (and for work performed) on or after the date of this Agreement, unless specific authorization from the City to the contrary is received;

- f. Made in conformance with the federal cost principles set forth in OMB's "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR Part 200 and the U.S. DOT's implementing regulations, 2 CFR Part 1201;
 - g. Satisfactorily documented; and
 - h. Treated uniformly and consistently under accounting principles and procedures approved or prescribed by the City.
- 10. Reports.** Subrecipient shall advise the City regarding the progress of the Project at such time and in such manner as provided in Exhibit C, "Section 5310 Program Management Plan", attached and incorporated hereto. Subrecipient shall report on a monthly, quarterly, and annual basis ridership and other data in the form as requested by the City, including an invoice for reimbursement of eligible costs. Subrecipient shall collect and submit to the City, at such time as the City requires, financial statements, data, records, contracts and other documents related to the Project as may be deemed necessary by the City. In addition, Subrecipient shall furnish the City with a copy of an independent annual audit following completion of the Project.
- 11. Equipment.** Equipment purchased for the Project shall only be used for passenger transportation services as approved in Subrecipient's Project Documents, attached as Exhibit A. Subrecipient understands and agrees that the FTA retains an interest in any Project equipment for that equipment's useful life or until it purchases the federal interest, whichever occurs first. Subrecipient shall only use Project equipment purchased with Grant Funds for public transportation services as approved by the City even if federal funding of the Project is discontinued. Subrecipient shall not transfer ownership of any Project equipment without prior written approval from the City and the FTA, if required.
- 11.1 Equipment's Useful Life. Subrecipient may purchase the federal interest of Project equipment any time prior to the expiration of the equipment's useful life. The federal interest is the federal percentage share of the equipment's current fair market value as determined by an independent appraisal of the equipment.
- 11.2 Vehicles. Subrecipient understands and agrees that the FTA retains an interest in any vehicles purchased for the Project. That interest continues for the useful life of the vehicle or until Subrecipient purchases the FTA's interest, whichever occurs first. Subrecipient understands and agrees that, in order to protect the FTA's interest, the City shall retain the title for any vehicles purchased for the Project.
- 11.3 Vehicle Use. Subrecipient understands and agrees that any vehicles purchased with Grant Funds are expected to attain a minimum of 100 passenger service miles per week, per vehicle or 100 one-way passenger trips per week per vehicle.
- 11.4 Replacement Vehicles. If an accident occurs that removes a vehicle from further operations prior to the end of its useful life, the City shall receive the insurance proceeds. If Subrecipient purchases a replacement vehicle of a similar type and of equal or greater value than the one damaged, the City shall forward the insurance proceeds to Subrecipient once Subrecipient provides evidence of its purchase. If Subrecipient does not purchase a replacement vehicle, the City shall retain the federal percentage share of the insurance proceeds and provide Subrecipient with the local percentage share of the insurance proceeds.

- 11.4 Maintenance. Subrecipient shall follow the maintenance requirements for vehicles as provided in CATS Facility Maintenance Plan and Bus Fleet Management Plan (combined the “FMP”) for preventative maintenance, vehicle servicing, and vehicle replacement. Subrecipient shall make these records as well as its vehicles available for inspection during the City’s site visits.
- 11.5. Database. Subrecipient shall maintain a database of vehicle inventory records that shall include but not be limited to the vehicle year, make, and model; date accepted; included equipment; location; inspection, mileage and condition; funding used for the purchase; and maintenance information.

12. Audit and Inspection. Subrecipient shall permit and shall require its contractors to permit the City, the FTA, and the Comptroller General of the United States, or their authorized representatives, to inspect all work, materials, payrolls, and other data and records with regard to the Project and to audit the books, records, and accounts of Subrecipient pertaining to the Project.

Subrecipient shall maintain all books, documents, papers, accounting records, and such other evidence as may be appropriate to substantiate costs incurred under this Agreement. Further, Subrecipient shall make such materials available at its office at all reasonable times during the Agreement period, and for three (3) years from the date of final payment under this Agreement, for inspection and audit by the City or the FTA.

13. Representations and Warranties of Subrecipient. Subrecipient represents and covenants that:

- 13.1. Subrecipient has the qualifications, skills and experience necessary to perform the Project described or referenced in Exhibit A.
- 13.2. The Project shall be performed in accordance with all requirements set forth in this Agreement, including but not limited to Exhibits A and B.
- 13.3. Neither the Project, nor any Deliverables provided by Subrecipient under this Agreement, will infringe or misappropriate any patent, copyright, trademark, trade secret or other intellectual property rights of any third party. Subrecipient shall not violate any non-compete agreement or any other agreement with any third party by entering into or performing this Agreement.
- 13.4. Subrecipient affirms that it has not retained any party other than a bona-fide employee working for Subrecipient to solicit this Agreement, and that it has not paid or agreed to pay any outside party consideration in any form contingent upon securing this Agreement. The City shall have the right to terminate this Agreement for cause for any breach of this warranty.
- 13.5. In connection with its obligations under this Agreement, Subrecipient shall comply with all applicable federal, state, and local laws and regulations and shall obtain all applicable permits and licenses.
- 13.6. Subrecipient warrants that it has all the requisite power and authority to execute, deliver and perform its obligations under this Agreement, including but not limited to paying Subrecipient’s Share of the Project Costs, as described in Section 6.

14. Termination of Agreement.

- 14.1 Termination for Convenience. The City, upon thirty (30) days written notice, may terminate this Agreement in whole or in part, when it is in the interest of the City. If this Agreement is terminated, the City shall be liable only for payments under the payment

provisions of this Agreement for services rendered and costs incurred before the effective date of termination.

- 14.2 Termination for Funding Withdrawal. The City may terminate this Agreement immediately on written notice to Subrecipient if at any time the FTA for any reason does not award further Grant Funds for Section 5310 Programs to the City. Subrecipient shall be paid under the payment provisions of this Agreement for any services rendered and costs incurred prior to the effective date of such termination.
- 14.3 Termination for Default. If Subrecipient fails to perform the services within the time specified in this Agreement or any extension or if Subrecipient fails to comply with other provisions of this Agreement, the City may, subject to the cure provision in Section 14.4, terminate this Agreement for default. The City shall terminate by delivering a Notice of Termination to Subrecipient specifying the nature of the default. Subrecipient shall only be paid for services performed and costs incurred in accordance with the manner or performance set forth in this Agreement.
- 14.4 Opportunity to Cure. The City shall, in the case of a termination for default, provide Subrecipient seven (7) business 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 Subrecipient fails to remedy to the City's reasonable satisfaction the breach or default of any of the terms, covenants, or conditions of this Agreement within seven (7) business days after receipt of the City's notice, the City shall have the right to terminate the Agreement without any further obligation to Subrecipient, except for payment in the manner or performance set forth in this Agreement for services rendered and costs incurred prior to such termination. Any such termination for default shall not in any way preclude the City from also pursuing all available remedies against Subrecipient and its sureties for said breach or default.
- 14.5 Waiver of Remedies for Breach. In the event the City elects to waive its remedies for any breach by Subrecipient of any covenant, term or condition of this Agreement, such waiver by the City shall not limit the remedies for any succeeding breach of that or of any other term, covenant, or condition of this Agreement.
- 14.6 Obligations upon Expiration or Termination. Upon expiration or termination of this Agreement, Subrecipient shall promptly provide the City with a written statement describing in detail the status of the Project as of the date of termination, including an invoice documenting all Project Costs as of the date of termination. Termination of this Agreement shall not relieve Subrecipient of the obligation to file any monthly, quarterly, or annual reports nor relieve Subrecipient from any claim for reimbursement of Grant Funds previously accrued or then accruing against Subrecipient.

15. Relationship of the Parties. The relationship of the parties established by this Agreement is the City as recipient and Subrecipient as the subrecipient of federal grant funds as defined by the FTA. With the exception of the required administrative oversight of the Project by the City, nothing contained in this Agreement shall be construed to (i) give any party the power to direct or control the day-to-day administrative activities of the other; or (ii) constitute such parties as partners, co-owners or otherwise as participants in a joint venture. Neither party nor its agents or employees is the representative of the other for any purpose, and neither party has the power or authority to act for, bind, or otherwise create or assume any obligation on behalf of the other.

16. Indemnification.

- 16.1 To the fullest extent permitted by law, Subrecipient shall indemnify, defend and hold harmless each of the “Indemnitees” (as defined below) from and against any and all “charges” (as defined below) paid or incurred by any of them as a result of any claims, demands, lawsuits, actions, or proceedings: (i) alleging violation, misappropriation or infringement of any copyright, trademark, patent, trade secret or other proprietary rights with respect to the Project (“Infringement Claims”); (ii) seeking payment for labor or materials purchased or supplied by Subrecipient or its subcontractors in connection with this Agreement; or (iii) arising from Subrecipient’s failure to perform its obligations under this Agreement or from any act of negligence or willful misconduct by Subrecipient or any of its agents, employees or subcontractors relating to this Agreement, including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness or disease to any person(s) or damage or destruction to any property, real or personal, tangible or intangible; or (iv) arising from any claim that Subrecipient or an employee or subcontractor of Subrecipient is an employee of the City, including but not limited to claims relating to worker’s compensation, failure to withhold taxes and the like. For purposes of this Section: (a) the term “Indemnitees” means the City, the State of North Carolina, and the United States Department of Transportation (U.S. DOT), and the officers, officials, employees, agents and independent contractors (excluding Subrecipient) of the City, the State, or the U.S. DOT; and (b) the term “Charges” means any and all losses, damages, costs, expenses (including reasonable attorneys’ fees), obligations, duties, fines, penalties, royalties, interest charges and other liabilities (including settlement amounts).
- 16.2 This Section 16 shall remain in force despite termination of this Agreement (whether by expiration of the term or otherwise).
- 16.3 Notwithstanding the foregoing, Subrecipient shall not be liable to the City to the extent a claim arises from the City’s negligence or willful misconduct or the negligence or willful misconduct of any employee or agent of the City.

17. Insurance.

17.1 General Requirements.

- a. Subrecipient shall not commence any work in connection with this Contract until it has obtained all of the types of insurance set forth in this **Section 17**, and the City has approved such insurance. Subrecipient shall not allow any subcontractors to commence work on its subcontract until all insurance required of the subcontractors has been obtained and approved.
- b. All insurance policies required by **Section 17.2** shall be with insurers qualified and doing business in North Carolina and recognized by the Secretary of State and the Insurance Commissioner’s Office. Subrecipient shall name the City as an additional insured under the commercial general liability policy required by **Section 17.2**.
- c. Subrecipient’s insurance, except for Automobile Liability, shall be primary of any self-funding and/or insurance otherwise carried by the City for all loss or damages arising from Subrecipient’s operations under this Contract. Subrecipient and each of its subcontractors shall and does waive all rights of subrogation against the City and each of the Indemnitees (as defined in **Section 16**).
- d. The City shall be exempt from, and in no way liable for, any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall

be the sole responsibility of Subrecipient and/or subcontractors providing such insurance.

- e. Within three (3) days after execution of this Contract, Subrecipient shall provide the City with Certificates of Insurance documenting that the insurance requirements set forth in this **Section 17** have been met, and that the City be given thirty (30) days' written notice of any intent to amend coverage or make material changes to or terminate any policy by either the insured or the insurer. Subrecipient shall further provide such certificates of insurance to the City at any time requested by the City after execution of this Contract, and shall provide such certificates within five (5) days after the City's request. The City's failure to review a certificate of insurance sent by or on behalf of Subrecipient shall not relieve Subrecipient of its obligation to meet the insurance requirements set forth in this Contract.
- f. Should any or all of the required insurance coverage be self-funded/self-insured, Subrecipient shall furnish to the City a copy of the Certificate of Self-Insurance or other documentation from the North Carolina Department of Insurance.
- g. If any part of the work under this Agreement is sublet, the subcontractors shall be required to meet all insurance requirements set forth in this **Section 17**, provided that the amounts of the various types of insurance shall be such amounts as are approved by the City in writing. However, this will in no way relieve Subrecipient from meeting all insurance requirements or otherwise being responsible for the subcontractors.

17.2 Subrecipient agrees to purchase and maintain, during the life of this Agreement, with an insurance company acceptable to the City and authorized to do business in the State of North Carolina, the following insurance policies:

- a. **Automobile Liability.** Bodily injury and property damage liability covering all owned, non-owned and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limit each occurrence/aggregate, or as the State of North Carolina requires, whichever is greater.
- b. **Commercial General Liability.** Bodily injury and property damage liability shall protect Subrecipient and any subcontractor performing work under this Agreement from claims of bodily injury or property damage which arise from operation of this Agreement whether such operations are performed by Subrecipient, any subcontractor, or any one directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products/completed operations, personal injury liability and contractual liability assumed under the indemnity provision of this Agreement.
- c. **Workers' Compensation Insurance.** Meeting the statutory requirements of the State of North Carolina and Employers Liability - \$100,000 per accident limit, \$500,000 disease per policy limit, \$100,000 disease each employee limit, providing coverage for employees and owners.

d. **Umbrella.** Umbrella insurance should be no less than \$1,000,000 per occurrence if contract does not exceed 180 days and does not exceed \$500,000; otherwise, \$2,000,000 per occurrence.

e. **Professional Liability.** Professional Liability insurance policy limit requirements shall be based on the total amount of compensation to be paid to Subrecipient under this Agreement and on a determination by City of whether the services provided under this Agreement are for hazardous or non-hazardous activities. The required limits are:

Non-Hazardous Activities: \$1,000,000 per claim/\$1,000,000 annual aggregate.

Hazardous Activities:

For contracts less than \$100,000: \$2,000,000 per claim/\$2,000,000 annual aggregate.

For contracts over \$100,000: \$5,000,000 per claim/\$5,000,000 annual aggregate

18. Drug-Free Workplace. The City is a drug-free workplace employer. The Concord City Council has adopted a policy requiring Companies to provide a drug-free workplace in the performance of any City contract. Subrecipient hereby certifies that it has or it will within thirty (30) days after execution of this Agreement:

- 18.1 Notify employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace and specifying actions that will be taken for violations of such prohibition;
- 18.2 Establish a drug-free awareness program to inform employees about (i) the dangers of drug abuse in the workplace, (ii) Subrecipient's policy of maintaining a drug-free workplace, (iii) any available drug counseling, rehabilitation, and employee assistance programs, and (iv) the penalties that may be imposed upon employees for drug abuse violations;
- 18.3 Notify each employee that as a condition of employment, the employee will (i) abide by the terms of the prohibition outlined above, and (ii) notify Subrecipient of any criminal drug statute conviction for a violation occurring in the workplace not later than five (5) days after such conviction;
- 18.4 Impose a sanction on, or requiring the satisfactory participation in a drug counseling, rehabilitation or abuse program by an employee convicted of a drug crime;
- 18.5 Make a good faith effort to continue to maintain a drug-free workplace for employees; and
- 18.6 Require any party to which it subcontracts any portion of the work under this Agreement to comply with the above provisions.

A false certification or the failure to comply with the above drug-free workplace requirements during the performance of this Agreement shall be grounds for suspension, termination or debarment.

19. Civil Rights. As a condition of entering into this Agreement, Subrecipient represents and warrants that it will fully comply with all civil rights laws and implementing regulations including, but not limited to, the following:

- a. Nondiscrimination in Federal Public Transportation Programs. The Subrecipient agrees to comply, and assures the compliance of each third party contractor at any tier of the Project, with the provisions of 49 U.S.C. § 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.
- b. Title VI of the Civil Rights Act. The Subrecipient agrees to comply, and assures the compliance of each third party contractor at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq., and with U.S. DOT regulations.
- c. Equal Employment Opportunity. The Subrecipient agrees to comply, and assures the compliance of each third party Subrecipient at any tier of the Project and each sub-recipient at any tier of the Project, with all equal employment opportunity (EEO) provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and implementing Federal regulations and any subsequent amendments thereto. Accordingly, the Subrecipient agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Subrecipient 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, sex, disability, age, or national origin. Such action shall include, but not be limited to, 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.
- d. E-Verify Compliance. The Subrecipient agrees that if it enters into any subcontracts in order to perform any of its obligations under this contract, will require that the contractors and its subcontractors comply with the requirements of NC Gen. Stat. Article 2 of Chapter 64.
- e. Disadvantaged Business Enterprises. The Subrecipient agrees to promote the use of small and disadvantaged business enterprise contractors.
 - (1) Policy. It is the policy of the CITY that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26 shall have the equal opportunity to compete fairly for and to participate in the performance of contracts financed in whole or in part by Federal Funds.
 - (2) Goals. Even though specific DBE goals are not established for this project, the CITY encourages the Subrecipient to have participation from DBE contractors and/or suppliers.

- (3) Listing of DBE Subcontractors. The Subrecipient shall submit a listing of all known DBE subcontractors that will participate in the performance of this Project.
 - (4) DBE Certification. Only contractors identified as DBE certified through NCDOT's Unified Certification Program (UCP) shall be listed and counted for DBE participation.
 - (5) Reporting Disadvantaged Business Enterprise Participation. When payments are made to Disadvantaged Business Enterprise (DBE) contractors, including material suppliers, contractors at all levels, the Subrecipient shall provide the CITY with an accounting of said payments.
 - (6) Replacement of Subcontractors. Subrecipient shall not replace a DBE subcontractor without prior approval of the CITY. CONTRACTOR agrees to make a good faith effort to replace any DBE subcontractor with another DBE subcontractor.
- f. Access for Individuals with Disabilities. The Subrecipient agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Subrecipient also agrees to comply with all applicable provisions of Section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities. In addition, the Subrecipient agrees to comply with applicable Federal regulations and directives and any subsequent amendments thereto, except to the extent the CITY determines otherwise in writing.
- g. Access to Services for Persons with Limited English Proficiency. To the extent applicable and except to the extent that the CITY determines otherwise in writing, the Subrecipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 66 Fed. Reg. 6733 et seq., January 22, 2001.
- h. Environmental Justice. The Subrecipient agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note, except to the extent that the CITY determines otherwise in writing.

- i. **Other Nondiscrimination Laws.** The Subrecipient agrees to comply with all applicable provisions of other Federal laws, regulations, and directives pertaining to and prohibiting discrimination that are applicable.

As a condition of entering into this Agreement, Subrecipient agrees to: (a) promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation, selection, treatment and payment of subcontractors in connection with this Agreement; and (b) if requested, provide to the City, within sixty (60) days after the request, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Subrecipient has used on City contracts in the past five (5) years, including the total dollar amount paid by contractor on each subcontract or supply contract. Subrecipient further agrees to fully cooperate in any investigation conducted by the City pursuant to the City’s Non-Discrimination Policy, to provide any documents relevant to such investigation that are requested by the City, and to be bound by the award of any arbitration conducted under such Policy.

Subrecipient understands and agrees that a violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of Subrecipient from participating in City contracts and other sanctions.

20. Notices and Principal Contacts. Any notice, consent or other communication required or contemplated by this Contract shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by telefax to the intended recipient at the address set forth below:

For Subrecipient _____

For the City:
 Dana Hood
 35 Cabarrus Ave West
 PO Box 308
 Concord, NC 28026-308
 Phone: (704) 920-5229
 Fax: (704) 920-5231
 E-mail: hoodd@concordnc.gov

Communications that relate to any breach, default, termination, delay in performance, prevention of performance, modification, extension, amendment, or waiver of any provision of this Contract shall further be copied to the following (in addition to being sent to the individuals specified above):

For Subrecipient: _____

For the City:
 Valerie Kolczynski
 City Attorney’s Office
 35 Cabarrus Ave West
 PO Box 308
 Concord, NC 28226
 Phone: (704) 920-5118
 E-mail: Kolczynv@concordnc.gov

Notice shall be effective upon the date of receipt by the intended recipient; provided that any notice that is sent by telefax or electronic mail shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier. Each party may change its address for notification purposes by giving the other party written notice of the new address and the date upon which it shall become effective.

21. Governing Law, Jurisdiction and Venue. North Carolina law shall govern interpretation and enforcement of this Agreement and any other matters relating to this Agreement (all without regard to North Carolina conflicts of law principles). Any and all legal actions or proceedings relating to this Agreement shall be brought in a state or federal court sitting in Cabarrus County, North Carolina. By the execution of this Agreement, the parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all objections that they may have with respect to venue in any court sitting in Cabarrus County, North Carolina. This Section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this Section.

22. Breaches and Dispute Resolution.

22.1 For all disputes, the parties shall first meet in good faith to resolve the dispute. If the parties are unsuccessful in settling the dispute, such meeting shall be followed by non-binding mediation conducted pursuant to the conditions set forth in this Section.

22.2 Any contractor or subcontractor performing work or providing supplies or services used in this Agreement that is a party to an issue or claim in which the amount in controversy is at least fifteen thousand dollars (\$15,000) may require others that are party to the issue or claim to participate in the Dispute Resolution Process set forth in this Section. Unless otherwise directed by the City, Subrecipient shall continue performance under this Agreement while matters in dispute are being resolved. The process set forth by this Section may be foregone upon the mutual written agreement of all parties in interest to the individual dispute. Otherwise, full compliance with this Section is a precondition for any party to initiating any form of litigation concerning the dispute.

22.3 Subcontract Inclusion. Subrecipient shall and hereby agrees to include this Section in every subcontract or any other agreement it enters into with any party that will be involved in this project.

22.4 Parties at Issue and Required Notice.

(a) If the City is not a party to the issue or claim, the party requesting dispute resolution must notify the City, in writing, of the requested dispute resolution and must include a brief summary of the issue including the alleged monetary value of the issue. The written notice must be sent to the City prior to the service of the request for dispute resolution upon the parties to the issue.

(b) If the party requesting dispute resolution is a subcontractor, it must first submit its claim to the Prime Contractor with whom it has a contract. If the matter is not resolved through the Prime Contractor's informal involvement, then the matter becomes ripe for the Dispute Resolution Process under this Section, and the party may submit its written notice of Dispute Resolution to the City.

(c) The City is under no obligation to secure or enforce compliance with this Section in which the City is not a party. The City is entitled to notice as required by this Section, but has no obligation to administer, mediate, negotiate, or defray any costs in which the City is not a party, except for the selection of a mediator as set forth in Subsection

18.6.1 below.

- (d) If the City is a party to the issue, the party requesting resolution must submit a written request to the City.
- (e) Upon receipt of a written request for dispute resolution that fully complies with the requirements of this Section, the parties to the dispute shall follow the process as set forth in this Section in good faith. The costs of the process shall be divided equally among the parties.

22.5 Formal Resolution Meeting. Representatives of each party shall meet as soon as reasonable to attempt in good faith to resolve the dispute. If the City is a party to the dispute, all other parties must be represented by a person with the authority to settle the dispute on behalf of their respective organizations. The parties may, by agreement and in good faith, conduct further meetings as necessary to resolve the dispute. If resolution is not achieved, the parties shall initiate mediation as set forth below.

22.6 Mediation.

- (a) Selection of Mediator. The parties shall in good faith select a mediator certified in accordance with the rules of mediator certification in Superior Court in North Carolina. If the parties desire a mediator not so certified, the City's consent to such a mediator must first be obtained in writing. If the parties cannot agree to a mediator within a reasonable time, the City shall have the right to unilaterally select a certified mediator if the City is a party to the dispute or, if the City is not a party to the dispute but is requested to do so by a party to the dispute.
- (b) Mediation Contract. Upon selection of a mediator, the parties to the dispute shall in good faith enter into a mediation agreement that shall include terms governing the time, place, scope, and procedural rules of the mediation including those set forth in Subsection 22.6(c) below. The agreement shall also include terms governing the compensation, disqualification, and removal of the mediator. All terms of the mediation agreement must be consistent with the terms of this Section and Agreement, as well as all applicable laws. If the parties fail to agree to the procedural rules to be used, then the American Arbitration Association Construction Industry Mediation Rules shall be used to the extent such rules are consistent with this Agreement and applicable law.
- (c) Stalemate. If after all reasonable good-faith attempts to resolve the dispute have been made, it appears to the mediator that the parties are at a stalemate with no significant likelihood of reaching resolution, the mediator shall so inform the parties and shall issue a written Notice of Stalemate, which shall conclude the dispute resolution process, unless the parties agree otherwise.

23. No Liability for Special or Consequential Damages. The City and Subrecipient shall not be liable to each other, their agents or representatives or any subcontractors for or on account of any stoppages or delay in the performance of any obligations of the City, or any other consequential, indirect or special damages or lost profits related to this Agreement.

24. Severability. The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Agreement shall not affect the validity of the remaining portion of the Agreement so long as the material purposes of the Agreement can be determined and effectuated. If any provision of this Agreement is held to be unenforceable, then both parties shall be relieved of all

obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

25. No Publicity. No advertising, sales promotion or other materials of Subrecipient or its agents or representations may identify or reference this Agreement or the City in any manner without the written consent of the City.

26. Approvals. All approvals or consents required under this Agreement must be in writing.

27. Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party waiving the rights. No delay or omission by either party to exercise any right or remedy it has under this Agreement shall impair or be construed as a waiver of such right or remedy. A waiver by either party of any right or remedy, or breach of this Agreement shall not constitute or operate as a waiver of any succeeding breach of that right or remedy or of any other right or remedy.

28. Survival of Provisions. All provisions of this Agreement which by their nature and effect are required to be observed, kept or performed after termination of this Agreement shall survive the termination of this Agreement and remain binding thereafter, including but not limited to the following:

Section 7.5	“Employment Taxes and Employee Benefits”
Section 11	“Equipment”
Section 13	“Representations and Warranties of Subrecipient”
Section 14	“Termination of Agreement”
Section 16	“Indemnification”
Section 17	“Insurance
Section 20	“Notices and Principal Contacts”

29. Familiarity and Compliance with Laws and Ordinances. Subrecipient agrees to make itself aware of and comply with all local, state and federal ordinances, statutes, laws, rules and regulations applicable to the Project. Subrecipient further agrees that it will at all times during the term of this Agreement be in compliance with all applicable federal, state and/or local laws regarding employment practices. Such laws will include, but shall not be limited to workers' compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and all OSHA regulations applicable to the Project.

30. Conflict of Interest and Code of Conduct. Subrecipient shall notify the City immediately if it has a real or apparent conflict of interest with regard to this Agreement. Subrecipient shall not use its position for personal or organizational gain. Subrecipient shall not engage in any transaction that presents a real or apparent conflict of interest. Subrecipient shall not engage in any transaction incompatible with the proper discharge of its duties in the public interest or that would tend to impair independent judgment or action in performance of its contractual obligations.

Subrecipient shall not give gifts or favors to City staff nor shall City staff accept gifts or favors in violation of N.C.G.S. § 133-32 or City Policy HR 12.3 regarding gifts and favors.

31. Construction of Terms. Each of the parties has agreed to the use of the particular language of the provisions of this Agreement and any questions of doubtful interpretation shall not be resolved

by any rule or interpretation against the drafters, but rather in accordance with the fair meaning thereof, having due regard to the benefits and rights intended to be conferred upon the parties hereto and the limitations and restrictions upon such rights and benefits intended to be provided.

- 32. Federal Clauses.** The work to be performed under this Agreement will be financed in whole or in part with Federal funding. As such, Federal laws, regulations, policies, and related administrative practices apply to this Agreement. The most recent of such Federal requirements, including any amendments made after the execution of this Agreement, shall govern this Agreement, unless the Federal Government determines otherwise. Subrecipient agrees to comply with the following federal requirements that are applicable to this Agreement and shall incorporate these requirements into any subagreement or subcontract it executes pursuant to its obligations under this Agreement.

To the extent applicable, the Federal requirements contained in the most recent version of the Federal Transit Administration (“FTA”) Master Agreement, as amended (the “Master Agreement”), including any certifications and contractual provisions required by any Federal statutes or regulations referenced therein to be included in this Agreement, are deemed incorporated into this Agreement by reference and shall be incorporated into any sub agreement or subcontract executed by Subrecipient pursuant to its obligations under this Agreement. Subrecipient and its subcontractors, if any, hereby represent and covenant that they have complied and shall comply in the future with the applicable provisions of the Master Agreement then in effect and with all applicable Federal, State and Local laws, regulations, and rules and local policies and procedures, as amended from time to time, relating to the work to be performed under this Agreement. 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. Subrecipient shall not perform any act, fail to perform any act, or refuse to comply with any City requests, which would cause the City to be in violation of the FTA terms and conditions.

32.1 Energy Conservation. Subrecipient agrees to comply with the 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, 42 U.S.C. §§ 6321 *et. seq.* This requirement extends to all third party contractors and their contracts at every tier.

32.2 Clean Water.

(a) Subrecipient 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.* Subrecipient agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(b) Subrecipient also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

32.3 Clean Air. Subrecipient 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.* Subrecipient agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

Subrecipient also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

- 32.4 Recovered Materials. Subrecipient agrees to comply with all the requirements of section 6002 of the Resource conservation and Recovery Act (RCRA), as amended (42 U.S.C. § 6962), including but not limited to the regulatory provisions of 40 CFR part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.
- 32.5 Charter Bus Operations. Subrecipient agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be “incidental,” i.e., it must not interfere with or detract from the provision of mass transportation.
- 32.6 School Bus Operations. Pursuant to 49 U.S.C. § 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.
- 32.7 Lobbying. Pursuant to the Byrd Anti-Lobbying Amendment, 31 U.S.C. §1352, as amended by the Lobbying Disclosure Act of 1995, 2 U.S.C. § 1601, *et seq.*, Subrecipient shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." This requirement extends to all third-party contractors and their contracts at every tier. Each tier certifies to the tier above that it has not and will not use federally 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 City. This Certification is attached with Subrecipient’s Project Documents in Exhibit A.
- 32.8 Access to Records and Reports. Subrecipient agrees to provide the City, 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 Subrecipient which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions. Subrecipient agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- Subrecipient agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than three (3) years after date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Subrecipient agrees to maintain same until the City, 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.
- 32.9 Federal Changes. Subrecipient shall at all times comply with all applicable FTA

regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the City and FTA, as they may be amended or promulgated from time to time during the term of this Agreement. Subrecipient's failure to so comply shall constitute a material breach of this Agreement.

- 32.10 No Government Obligation to Third Parties. The City and Subrecipient acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Section 5310 grant, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the City, Subrecipient, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Section 5310 grant.

Subrecipient 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.

- 32.11 Program Fraud and False or Fraudulent Statements or Related Acts.

(a) Subrecipient 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 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of this Agreement, Subrecipient certifies and 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 Agreement or the Project. In addition to other penalties that may be applicable, Subrecipient 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 Subrecipient to the extent the Federal Government deems appropriate.

(b) Subrecipient 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 Subrecipient, to the extent the Federal Government deems appropriate.

(c) Subrecipient 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.

- 32.12 Government-Wide Debarment and Suspension (Nonprocurement). This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Subrecipient is required to verify that neither it, nor its principals (as defined at 49 CFR 29.995) or affiliates (as defined at 49 CFR 29.905) is excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

Subrecipient 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 in which it enters. Upon execution of this Agreement, Subrecipient certifies as follows:

"The certification in this clause is a material representation of

fact relied upon by the City. If it is later determined that Subrecipient knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Subrecipient agrees to comply with the requirements of 49 CFR 29, Subpart C throughout the period of this Agreement. Subrecipient further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

32.13 Civil Rights Requirements. The following requirements apply to this Agreement:

- (a) 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, Subrecipient 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, Subrecipient agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- (b) Equal Employment Opportunity. The following equal employment opportunity requirements apply to this Agreement:
 - (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, Subrecipient 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 CFR 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. Subrecipient 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, Subrecipient 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, Subrecipient agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, Subrecipient 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, Subrecipient agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, Subrecipient agrees to comply with any implementing requirements FTA may issue.

Subrecipient 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.

- 32.14 Disadvantaged Business Enterprises. Subrecipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Subrecipient shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Agreement. Failure by Subrecipient to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the City deems appropriate. Subrecipient agrees to include the assurance in this paragraph in any agreement it signs with a subcontractor for the Project.
- 32.15 ADA Access. Subrecipient agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 USC §§ 12101 *et seq.*; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; 49 USC § 5301(d); and the following regulations and any amendments thereto:
 - (a) DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37;
 - (b) DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR Part 27;
 - (c) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "American With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 CFR Part 1192 and 49 CFR Part 38;
 - (d) Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 CFR Part 35;
 - (e) DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 CFR Part 36;
 - (f) General Services Administration regulations, "Accommodations for the Physically Handicapped," 41 CFR Subpart 101-19;
 - (g) Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630;
 - (h) Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 CFR Part 64, Subpart F;
 - (i) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 CFR Part 609;

- (j) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 CFR Part 1194; and
- (k) Any implementing requirements FTA may issue.

Subrecipient 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.

32.16 Incorporation of Federal Transit Administration (FTA) Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding Agreement provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, 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. Subrecipient shall not perform any act, fail to perform any act, or refuse to comply with any of the City’s requests which would cause the City to be in violation of the FTA terms and conditions. This requirement extends to all third-party contracts and their contracts at every tier.

IN WITNESS WHEREOF, and in acknowledgment that the parties hereto have read and understood each and every provision hereof, the parties have caused this Contract to be executed on the date first written above.

CITY OF COCORD

CABARRUS COUNTY

By: _____

By: _____

Print Name: Lloyd Wm. Payne, Jr.

Print Name: _____

Title: City Manager

Title: _____

Date: _____

Date: _____

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Finance Director

Date

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB

0348-0046

(See reverse for public burden disclosure.)

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance		2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award		3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____	
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, <i>if known</i> : Congressional District, if known: _____			5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____		
6. Federal Department/Agency:			7. Federal Program Name/Description: CFDA Number, <i>if applicable</i> : _____		
8. Federal Action Number, if known:			9. Award Amount, if known: \$ _____		
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI): <i>(attach Continuation Sheet(s) SF-LLLA, if necessary)</i>			b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI): <i>(attach Continuation Sheet(s) SF-LLLA, if necessary)</i>		
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned		13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____			
12. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____					
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11: <i>(attach Continuation Sheet(s) SF-LLLA, if necessary)</i>					
15. Continuation Sheet(s) SF-LLLA attached: <input type="checkbox"/> Yes <input type="checkbox"/> No					
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.			Signature: _____		
			Print Name: _____		
			Title: _____		
			Telephone No.: _____ Date: _____		
Federal Use Only:			Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)		

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLLA Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLLA Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

Section 5310 Funding Program Application

Please complete Parts I – III of the 5310 Funding Program Application. Return the completed application to CK Rider Transit as noted in the Application Process Section.

Part I – Funding Request

Applicant Information

Organization Name: Cabarrus County Transportation

Contact Person: Robert Bushey/ Anthony Hodges

Address: 1303 South Cannon Blvd

City, State, Zip: Kannapolis, NC 28083

Telephone: 704-920-2932 Fax: 704-262-7039

Email: rwbushey@cabarruscounty.us/alhodges@cabarruscounty.us

Website: Cabarruscounty.us/government/departments/transportation

Project Information

Title: Elderly and Handicapped Transportation

Brief Description: Cabarrus County Transportation provides approximately 25,000 trips a year for seniors and handicapped individuals, however, the need is much greater. There is a gap in funding to cover these trips.

Project Type: Traditional Other

Service days/hours (if applicable): Monday-Friday 7:00AM- 5:00PM

Estimated Cost per One-Way Trip (if applicable): \$18.00

Estimated Daily Riders per Weekday/Weekend (if applicable): 55

Part II – Project Narrative

Please complete the Project Narrative questions below for your application. These questions closely align with the Project Selection Criteria included in the 5310 Program Management Plan and 5310 Application Package.

Expanded Project Description

Please use this space to expand on your project description beyond the brief description provided in Part I of the application.

Project Needs

How is the proposed project consistent with eligible 5310 program activities and objectives of the 5310 funding program?

Describe how the project will increase or enhance the availability of transportation for the elderly and disabled populations in the Cabarrus-Rowan Urbanized Area?

What need(s) does the project address in the Local Coordinated Plan? Please provide the page number(s) in the Local Coordinated Plan your project corresponds with.

Does the project provide a service or investment that otherwise would not be available? If so, please explain.

Project Planning and Implementation

Describe how the proposed project might coordinate or link with other transportation providers or transportation stakeholders?

Describe the project timeline and project lifespan?

Please note how you plan to market your proposed project? If an existing service, note how your service is currently marketed?

When could your project begin upon receiving funding? Describe the process your organization would take to implement the project.

Project Budget

Draft Program Management Plan

In addition to filling out the Proposed Project Budget, note any plans for continued investment and/or maintenance for the proposed project after the 5310 funds are spent.

Program Effectiveness and Evaluation

How does your organization plan to collect information to monitor quality control and customer satisfaction related to implementing the proposed project? Include in your description any measurable indicators you propose to use.

Organizational Preparedness

Describe the staffing plan for this project. Who would be the primary staff person responsible for managing the grant? What other staff would be involved? Describe any relevant past experience these staff have in working on the type of project proposed.

Please note any experience your organization has with financial reporting such as quarterly reports, annual audits and/or other forms of financial reporting.

Describe any training, maintenance, inspections and/or service monitoring you plan to do focused on managing risk and providing safe services?

Part III – Proposed Project Budget

Project Funding

Local matching funds are required for all application submittals. For projects requiring operating funds the required match is 50% from non-federal transportation funds. For capital projects the required match is 20% + from non-federal transportation funds. Some potential capital match exceptions are noted in the FTA guidance and the CK Rider Area Transit 5310 Program Management Plan.

Total Project Budget	\$ <u>203,508</u>	
Capital Federal Share	\$ _____	_____ %
Capital Local Match	\$ _____	_____ %
Operating Federal Share	\$ <u>203,508</u>	<u>50</u> %
Operating Local Match	\$ <u>203,508</u>	<u>50</u> %

Local Match Fund Source: \$147,674 HCCBG grant, \$39,425 ROAP Grant, \$16,409 local

Note: The applicant must demonstrate a commitment to provide local funds and provide appropriate documentation. Documentation may be in the form of a letter or other supporting documentation noting where funds will be drawn from.

Exhibit B

FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

PREFACE

Before the Federal Transit Administration (FTA or We) may award federal assistance for public transportation in the form of a federal grant, cooperative agreement, loan, line of credit, loan guarantee, master credit agreement, or State Infrastructure Bank (SIB) cooperative agreement, certain pre-award Certifications and Assurances are required, except as FTA determines otherwise in writing. The Applicant must authorize a representative (Authorized Representative) to select and sign its Certifications and Assurances and bind the Applicant's compliance. You, as your Applicant's Authorized Representative, must select and sign all Certifications and Assurances that your Applicant must provide to support each application it submits to FTA for federal assistance during federal fiscal year (FY) 2018.

We request that you read each Certification and Assurance and select those that will apply to any application for which your Applicant might seek FTA assistance during FY 2018. As provided by federal laws, regulations, and requirements, FTA may award federal assistance only if the Applicant's Authorized Representative selects adequate Certifications and Assurances.

We have consolidated our Certifications and Assurances into twenty-one (21) Categories.

We encourage you to make a single selection that will encompass all twenty-one (21) Categories of Certifications and Assurances that apply to our various programs. FTA, the Applicant, and the Applicant's Authorized Representative, understand and agree that not every provision of these twenty-one (21) Categories of Certifications and Assurances will apply to every Applicant or every Award or Project included in an Award, even if you make a single selection encompassing all twenty-one (21) Categories. Nor will every provision of each Certification or Assurance within a single Category apply if that provision does not apply to your Applicant or the Award it seeks. The type of Applicant and its application will determine which Certifications and Assurances apply.

In the alternative:

- All Applicants must select the Assurances in Category 01, "Required Certifications and Assurances for each Applicant.*
- If your Applicant requests or intends to request more than \$100,000 in federal assistance during FY2018, you must select the "Lobbying" Certification in Category 02, except if your Applicant is an Indian tribe, Indian organization, or an Indian tribal organization.*
- Depending on the nature of your Applicant and the Award it seeks, you may also need to select one or more Certifications and Assurances in Categories 03 through 21.*

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected that apply to its Award, itself, any Subrecipient, or any other Third

FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

Party Participant in its Award, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant as necessary to assure your Applicant's compliance with the applicable Certifications and Assurances selected on its behalf.

Except as FTA determines otherwise in writing, if your Applicant is a team, consortium, joint venture, or partnership, it understands and agrees that you must identify the activities that each member will perform and the extent to which each member will be responsible for compliance with the selected Certifications and Assurances. You also must identify each member's role in the Award, whether as a Recipient, Subrecipient, Third Party Contractor, or other Third Party Participant.

It is important that you and your Applicant also understand that these Certifications and Assurances are pre-award requirements, generally imposed by federal law or regulation, and do not include all federal requirements that may apply to it or its Award. We expect you to submit your Applicant's FY 2018 Certifications and Assurances and its applications for federal assistance in FTA's Transit Award Management System (TrAMS). You must be registered in TrAMS to submit your Applicant's FY 2018 Certifications and Assurances. TrAMS contains fields for selecting among the twenty-one (21) Categories of Certifications and Assurances and a designated field for selecting all twenty-one (21) Categories of Certifications and Assurances. If FTA agrees that you are unable to submit your Applicant's FY 2018 Certifications and Assurances electronically, you must submit the Signature Pages at the end of this document, as FTA directs, marked to show the Categories of Certifications and Assurances that you are submitting.

Be aware that these Certifications and Assurances have been prepared in light of:

- *The Fixing America's Surface Transportation (FAST) Act, Public Law No. 114-94, December 4, 2015, and other authorizing legislation to be enacted,*
- *The Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law No. 112-141, July 6, 2012, as amended by the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, Public Law No. 114-41, July 31, 2015,*
- *Previous enabling legislation that remains in effect, and*
- *Appropriations Acts or Continuing Resolutions funding the U.S. Department of Transportation during Fiscal Year 2018.*

FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

CATEGORY 01. REQUIRED CERTIFICATIONS AND ASSURANCES FOR EACH APPLICANT.

Before FTA may provide federal assistance for your Applicant's Award, you must select the Certifications and Assurances in Category 01 in addition to any other applicable Certifications and Assurances, except as FTA determines otherwise in writing.

Any provision of the Certifications and Assurances in Category 01 that does not apply will not be enforced.

01.A. Certifications and Assurances of Authority of the Applicant and Its Authorized Representative.

You certify and affirm that in signing these Certifications, Assurances, and Agreements, both you, as your Applicant's Authorized Representative, and your Applicant's attorney who is authorized to represent your Applicant in legal matters, may undertake the following activities on your Applicant's behalf, in compliance with applicable state, local, or Indian tribal laws, regulations, and requirements and your Applicant's by-laws or internal rules:

1. Execute and file its application for federal assistance,
2. Execute and file its Certifications, Assurances, Charter Service Agreement, and School Bus Agreement, as applicable, binding its compliance,
3. Execute its Grant Agreement, Cooperative Agreement, Loan, Loan Guarantee, Line of Credit, Master Credit Agreement, or State Infrastructure Bank (SIB) Cooperative Agreement for which the Applicant is seeking federal assistance from FTA,
4. Comply with applicable federal laws, regulations, and requirements, and
5. Follow applicable federal guidance.

01.B. Standard Assurances.

On behalf of your Applicant, you assure that it understands and agrees to the following:

1. It will comply with all applicable federal laws, regulations, and requirements in implementing its Award.
2. It is under a continuing obligation to comply with the terms and conditions of its Grant Agreement or Cooperative Agreement with FTA for each Award, including the FTA Master Agreement and other documents incorporated by reference and made part of its Grant Agreement or Cooperative Agreement, or latest amendment thereto.
3. It recognizes that federal laws, regulations, and requirements may be amended from time to time and those amendments may affect the implementation of its Award.
4. It understands that Presidential executive orders and federal guidance, including federal policies and program guidance, may be issued concerning matters affecting it or its Award.
5. It agrees that the most recent federal laws, regulations, requirements, and guidance will apply to its Award, except as FTA determines otherwise in writing.
6. Except as FTA determines otherwise in writing, it agrees that requirements for FTA programs may vary depending on the fiscal year for which the federal assistance for those programs was appropriated or made available.

FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

01.C. Intergovernmental Review Assurance.

(This assurance in this Category 01.C does not apply to an Indian tribe, an Indian organization, or an Indian tribal organization that applies for federal assistance made available under 49 U.S.C. § 5311(c)(1), which authorizes FTA's Tribal Transit Programs.)

As required by U.S. Department of Transportation (U.S. DOT) regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17, on behalf of your Applicant, you assure that it has submitted or will submit each application for federal assistance to the appropriate state and local agencies for intergovernmental review.

01.D. Nondiscrimination Assurance.

On behalf of your Applicant, you assure that:

1. It will comply with the following laws, regulations, and requirements so that no person in the United States will be denied the benefits of, or otherwise be subjected to discrimination in, any U.S. DOT or FTA assisted program or activity (particularly in the level and quality of transportation services and transportation-related benefits) based on race, color, national origin, religion, sex, disability, or age including:
 - a. Federal transit laws, specifically 49 U.S.C. § 5332 (prohibiting discrimination based on race, color, religion, national origin, sex (including gender identity), disability, age, employment, or business opportunity),
 - b. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d,
 - c. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* (prohibiting discrimination based on race, color, religion, sex, (including gender identity and sexual orientation) or national origin,
 - d. Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs,
 - e. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 *et seq.*,
 - f. U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25,
 - g. The Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, *et seq.*,
 - h. The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*,
 - i. U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR part 21,
 - j. U.S. DOT regulations, specifically 49 CFR parts 27, 37, 38, and 39, and
 - k. Any other applicable federal statutes that may be signed into law, federal regulations that may be issued, or federal requirements that may be imposed.
2. It will comply with federal guidance implementing federal nondiscrimination laws, regulations, or requirements, except as FTA determines otherwise in writing.
3. As required by 49 CFR § 21.7:

FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

- a. It will comply with 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 in the manner that:
 - (1) It implements its Award,
 - (2) It undertakes property acquisitions, and
 - (3) It operates all parts of its facilities, as well as its facilities operated in connection with its Award.
- b. This assurance applies to its Award and to all parts of its facilities, as well as its facilities used to implement its Award.
- c. It will promptly take the necessary actions to carry out this assurance, including the following:
 - (1) Notifying the public that discrimination complaints about transportation-related services or benefits may be filed with U.S. DOT or FTA Headquarters Office of Civil Rights, and
 - (2) Submitting information about its compliance with these provisions to U.S. DOT or FTA upon their request.
- d. If it transfers U.S. DOT or FTA assisted real property, structures, or improvements to another party, any deeds and instruments recording that transfer will contain a covenant running with the land assuring nondiscrimination:
 - (1) While the property is used for the purpose that the federal assistance is extended, or
 - (2) While the property is used for another purpose involving the provision of similar services or benefits.
- e. The United States has a right to seek judicial enforcement of any matter arising under:
 - (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
 - (2) U.S. DOT regulations, 49 CFR part 21, or
 - (3) This assurance.
- f. It will make any changes in its Title VI implementing procedures, as U.S. DOT or FTA may request, to comply with:
 - (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
 - (2) U.S. DOT regulations, 49 CFR part 21, and
 - (3) Federal transit law, 49 U.S.C. § 5332.
- g. It will comply with applicable federal guidance issued to implement federal nondiscrimination requirements, except as FTA determines otherwise in writing.
- h. It will extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each Third Party Participant, including any:
 - (1) Subrecipient,
 - (2) Transferee,
 - (3) Third Party Contractor or Subcontractor at any tier,
 - (4) Successor in Interest,
 - (5) Lessee, or
 - (6) Other Participant in its Award, except FTA and the Applicant (and later, the Recipient).
- i. It will include adequate provisions to extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each third party agreement, including each:
 - (1) Subagreement at any tier,
 - (2) Property transfer agreement,

FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

- (3) Third party contract or subcontract at any tier,
- (4) Lease, or
- (5) Participation agreement.
- j. The assurances you have made on your Applicant's behalf remain in effect as long as FTA determines appropriate, including, for example, as long as:
 - (1) Federal assistance is provided for its Award,
 - (2) Its property acquired or improved with federal assistance is used for a purpose for which the federal assistance is extended, or for a purpose involving similar services or benefits,
 - (3) It retains ownership or possession of its property acquired or improved with federal assistance provided for its Award,
 - (4) It transfers property acquired or improved with federal assistance, for the period during which the real property is used for a purpose for which the financial assistance is extended or for another purpose involving the provision of similar services or benefits, or
 - (5) FTA may otherwise determine in writing.
4. As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR part 27, specifically 49 CFR § 27.9, and consistent with 49 U.S.C. § 5332, you assure that:
 - a. It will comply with the following prohibitions against discrimination based on disability listed below in subsection 4.b of this Category 01.D Assurance, of which compliance is a condition of approval or extension of any FTA assistance awarded to:
 - (1) Construct any facility,
 - (2) Obtain any rolling stock or other equipment,
 - (3) Undertake studies,
 - (4) Conduct research, or
 - (5) Participate in any benefit or obtain any benefit from any FTA administered program.
 - b. In any program or activity receiving or benefiting from federal assistance that U.S. DOT administers, no qualified individual with a disability will, because of his or her disability, be:
 - (1) Excluded from participation,
 - (2) Denied benefits, or
 - (3) Otherwise subjected to discrimination.

01.E Procurement Certification.

The Applicant agrees to comply with:

- a. U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 200, particularly 2 CFR §200.317-26 "Procurement Standards;
- b. Federal laws, regulations, and requirements applicable to FTA procurements; and
- c. The latest edition of FTA Circular 4220.1 and other applicable federal guidance.

FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

01.F. Suspension and Debarment, Tax Liability, and Felony Convictions Certifications.

01.F.1 Suspension and Debarment.

On behalf of your Applicant, you certify that:

- a. It will comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 CFR part 180.
- b. To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
 - (1) Are eligible to participate in covered transactions of any federal department or agency and are not presently:
 - (a) Debarred,
 - (b) Suspended,
 - (c) Proposed for debarment,
 - (d) Declared ineligible,
 - (e) Voluntarily excluded, or
 - (f) Disqualified.
 - (2) Within a three-year period preceding its latest application or proposal, its management has not been convicted of or had a civil judgment rendered against any of them for:
 - (a) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction, or contract under a public transaction,
 - (b) Violation of any federal or state antitrust statute, or
 - (c) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property.
 - (3) It is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses listed in the preceding subsection b(2) of this Certification.
 - (4) It has not had one or more public transactions (federal, state, or local) terminated for cause or default within a three-year period preceding this Certification.
 - (5) If, at a later time, it receives any information that contradicts the preceding statements of subsections a or b of this Category 01.F Certification, it will promptly provide that information to FTA.
 - (6) It will treat each lower tier contract or subcontract under its Award as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
 - (a) Equals or exceeds \$25,000,
 - (b) Is for audit services, or
 - (c) Requires the consent of a federal official.
 - (7) It will require that each covered lower tier contractor and subcontractor:
 - (a) Comply and facilitate compliance with the federal requirements of 2 CFR parts 180 and 1200, and
 - (b) Assure that each lower tier participant in its Award is not presently declared by any federal department or agency to be:

FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

- 1 Debarred from participation in any federally assisted Award,
 - 2 Suspended from participation in any federally assisted Award,
 - 3 Proposed for debarment from participation in any federally assisted Award,
 - 4 Declared ineligible to participate in any federally assisted Award,
 - 5 Voluntarily excluded from participation in any federally assisted Award, or
 - 6 Disqualified from participation in any federally assisted Award.
- c. It will provide a written explanation if it or any of its principals, including any of its first tier Subrecipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Category 01.F.1 Certification.

01.F.2. Tax Liability.

If your Applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, on behalf of your Applicant, you certify that:

- a. Your Applicant and its prospective Subrecipients have no unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- b. Your Applicant and its Subrecipients will follow applicable U.S. DOT guidance when issued.

01.F.3. Felony Convictions.

If your Applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, on behalf of your Applicant, you certify that:

- a. Your Applicant and its prospective Subrecipients have not been convicted of a felony criminal violation under any federal law within the preceding 24 months.
- b. Your Applicant and its Subrecipients will follow applicable U.S. DOT guidance when it is issued.

01.G. U.S. OMB Assurances in SF-424B and SF-424D.

The assurances in this Category 01.G are consistent with the U.S. OMB assurances required in the U.S. OMB SF-424B and SF-424D, and updated as necessary to reflect changes in federal laws, regulations, and requirements.

1. *Administrative Activities.* On behalf of your Applicant, you assure that:
 - a. For any application it submits for federal assistance, it has adequate resources to plan, manage, and properly complete the tasks to implement its Award, including:
 - (1) The legal authority to apply for federal assistance,
 - (2) The institutional capability,
 - (3) The managerial capability, and
 - (4) The financial capability (including funds sufficient to pay the non-federal share of the cost of incurred under its Award).
 - b. As required, it will give access and the right to examine materials related to its Award to the following entities or individuals, including, but not limited to:

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- (1) FTA,
- (2) The Comptroller General of the United States, and
- (3) The State, through an appropriate authorized representative.
- c. It will establish a proper accounting system in accordance with generally accepted accounting standards or FTA guidance.
- d. It will establish safeguards to prohibit employees from using their positions for a purpose that results in:
 - (1) A personal or organizational conflict of interest or personal gain, or
 - (2) An appearance of a personal or organizational conflict of interest or personal gain.
2. *Specifics of the Award.* On behalf of your Applicant, you assure that:
 - a. It will begin and complete work within the period of performance that applies following receipt of an FTA Award.
 - b. For FTA assisted construction Awards:
 - (1) It will comply with FTA provisions concerning the drafting, review, and approval of construction plans and specifications,
 - (2) It will provide and maintain competent and adequate engineering supervision at the construction site to assure that the completed work conforms to the approved plans and specifications,
 - (3) It will include a covenant to assure nondiscrimination during the useful life of the real property financed under its Award in its title to that real property, and it will include such covenant in any transfer of such property,
 - (4) To the extent FTA requires, it will record the federal interest in the title to FTA assisted real property or interests in real property, and
 - (5) It will not alter the site of the FTA assisted construction or facilities without permission or instructions from FTA by:
 - (a) Disposing of the underlying real property or other interest in the site and facilities,
 - (b) Modifying the use of the underlying real property or other interest in the site and facilities, or
 - (c) Changing the terms of the underlying real property title or other interest in the site and facilities.
 - c. It will furnish progress reports and other information as FTA or the state may require.
3. *Statutory and Regulatory Requirements.* On behalf of your Applicant, you assure that:
 - a. Your Applicant will comply with all federal laws, regulations, and requirements relating to nondiscrimination that apply, including, but not limited to:
 - (1) The prohibitions against discrimination based on race, color, or national origin, as provided in Title VI of the Civil Rights Act, 42 U.S.C. § 2000d.
 - (2) The prohibitions against discrimination based on sex, as provided in:
 - (a) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 – 1683, and 1685 – 1687, and
 - (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR part 25.

FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

- (3) The prohibitions against discrimination based on age in federally assisted programs, as provided in the Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 – 6107.
 - (4) The prohibitions against discrimination based on disability in federally assisted programs, as provided in section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794.
 - (5) The prohibitions against discrimination based on disability, as provided in the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101.
 - (6) The prohibitions against discrimination in the sale, rental, or financing of housing, as provided in Title VIII of the Civil Rights Act, 42 U.S.C. § 3601 *et seq.*
 - (7) The prohibitions against discrimination based on drug abuse, as provided in the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 *et seq.*
 - (8) The prohibitions against discrimination based on alcohol abuse, as provided in the Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, as amended, 42 U.S.C. § 4541 *et seq.*
 - (9) The confidentiality requirements for records of alcohol and drug abuse patients, as provided in the Public Health Service Act, as amended, 42 U.S.C. § 290dd – 290dd-2.
 - (10) The prohibitions against discrimination in employment as provided in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*,
 - (11) The nondiscrimination provisions of any other statute(s) that may apply to its Award.
- b. As provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Relocation Act), 42 U.S.C. § 4601 *et seq.*, and 49 U.S.C. § 5323(b), regardless of whether federal assistance has been provided for any real property acquired or improved for purposes of its Award:
- (1) It will provide for fair and equitable treatment of any displaced persons or any persons whose property is acquired or improved as a result of federally assisted programs.
 - (2) It has the necessary legal authority under state and local laws, regulations, and requirements to comply with:
 - (a) The Uniform Relocation Act. 42 U.S.C. § 4601 *et seq.*, as specified by 42 U.S.C. §§ 4630 and 4655, and
 - (b) U.S. DOT regulations, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,” 49 CFR part 24, specifically 49 CFR § 24.4.
 - (3) It has complied with or will comply with the Uniform Relocation Act and implementing U.S. DOT regulations because:
 - (a) It will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24.
 - (b) As provided by 42 U.S.C. §§ 4622, 4623, and 4624, and 49 CFR part 24, if its Award results in displacement, it will provide fair and reasonable relocation payments and assistance to:
 - 1 Displaced families or individuals, and
 - 2 Displaced corporations, associations, or partnerships.

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- (c) As provided by 42 U.S.C. § 4625 and 49 CFR part 24, it will provide relocation assistance programs offering the services described in the U.S. DOT regulations to such:
 - 1 Displaced families and individuals, and
 - 2 Displaced corporations, associations, or partnerships.
 - (d) As provided by 42 U.S.C. § 4625(c)(3), within a reasonable time before displacement, it will make available comparable replacement dwellings to families and individuals.
 - (e) It will do the following:
 - 1 Carry out the relocation process to provide displaced persons with uniform and consistent services, and
 - 2 Make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin.
 - (f) It will be guided by the real property acquisition policies of 42 U.S.C. §§ 4651 and 4652.
 - (g) It will pay or reimburse property owners for their necessary expenses as specified in 42 U.S.C. §§ 4653 and 4654, understanding that FTA will provide federal assistance for its eligible costs of providing payments for those expenses, as required by 42 U.S.C. § 4631.
 - (h) It will execute the necessary implementing amendments to FTA assisted third party contracts and subagreements.
 - (i) It will execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement these assurances.
 - (j) It will incorporate these assurances by reference into and make them a part of any third party contract or subagreement, or any amendments thereto, related to its Award that involves relocation or land acquisition.
 - (k) It will provide in any affected document that these relocation and land acquisition provisions must supersede any conflicting provisions.
- c. It will comply with the Lead-Based Paint Poisoning Prevention Act, specifically 42 U.S.C. § 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures.
 - d. It will, to the extent applicable, comply with the protections for human subjects involved in research, development, and related activities supported by federal assistance of:
 - (1) The National Research Act, as amended, 42 U.S.C. § 289 *et seq.*, and
 - (2) U.S. DOT regulations, “Protection of Human Subjects,” 49 CFR part 11.
 - e. It will, to the extent applicable, comply with the labor standards and protections for federally assisted Awards of:
 - (1) The Davis-Bacon Act, as amended, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147,
 - (2) Sections 1 and 2 of the Copeland “Anti-Kickback” Act, as amended, 18 U.S.C. § 874, and 40 U.S.C. § 3145, respectively, and
 - (3) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3701 *et seq.*
 - f. It will comply with any applicable environmental standards prescribed to implement federal laws and executive orders, including, but not limited to:

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- (1) Complying with the institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 – 4335 and following Executive Order No. 11514, as amended, 42 U.S.C. § 4321 note.
- (2) Following the notification of violating facilities provisions of Executive Order No. 11738, 42 U.S.C. § 7606 note.
- (3) Following the protection of wetlands provisions of Executive Order No. 11990, 42 U.S.C. § 4321 note.
- (4) Following the evaluation of flood hazards in the floodplains provisions of Executive Order No. 11988, May 24, 1977, as amended, 42 U.S.C. § 4321 note.
- (5) Complying with the assurance of consistency with the approved state management program developed pursuant to the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. §§ 1451 – 1465.
- (6) Complying with the Conformity of Federal Actions to State (Clean Air) Implementation Plans requirements under section 176(c) of the Clean Air Act of 1970, as amended, 42 U.S.C. §§ 7401 – 7671q.
- (7) Complying with protections for underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. § 300f – 300j-6.
- (8) Complying with the protections for endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 – 1544.
- (9) Complying with the environmental protections for federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, state, or local significance or any land from a historic site of national, state, or local significance to be used in a transportation Award, as required by 49 U.S.C. § 303 (also known as “Section 4f”).
- (10) Complying with the protections for national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. §§ 1271 – 1287.
- (11) Complying with and facilitating compliance with:
 - (a) Section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. § 300108,
 - (b) The Archaeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501 *et seq.*, and
 - (c) Executive Order No. 11593 (identification and protection of historic properties), 54 U.S.C. § 300101.
- g. To the extent applicable, it will comply with the following federal requirements for the care, handling, and treatment of warm-blooded animals held or used for research, teaching, or other activities supported with federal assistance:
 - (1) The Animal Welfare Act, as amended, 7 U.S.C. § 2131 *et seq.*, and
 - (2) U.S. Department of Agriculture regulations, “Animal Welfare,” 9 CFR subchapter A, parts 1, 2, 3, and 4.
- h. To the extent applicable, it will obtain a certificate of compliance with the seismic design and construction requirements of U.S. DOT regulations, “Seismic Safety,” 49 CFR part 41, specifically 49 CFR § 41.117(d), before accepting delivery of any FTA assisted buildings.

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- i. It will comply with and assure that each of its Subrecipients located in special flood hazard areas will comply with section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. § 4012a(a), by:
 - (1) Participating in the federal flood insurance program, and
 - (2) Purchasing flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- j. It will comply with:
 - (1) The Hatch Act, 5 U.S.C. §§ 1501 – 1508, 7324 – 7326, which limits the political activities of state and local agencies and their officers and employees whose primary employment activities are financed in whole or part with federal assistance, including a federal loan, grant agreement, or cooperative agreement, and
 - (2) 49 U.S.C. § 5323(1)(2) and 23 U.S.C. § 142(g), which provide an exception from Hatch Act restrictions for a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving federal assistance appropriated or made available under 49 U.S.C. chapter 53 and 23 U.S.C. § 142(a)(2) to whom the Hatch Act does not otherwise apply.
- k. It will perform the financial and compliance audits as required by the:
 - (1) Single Audit Act Amendments of 1996, 31 U.S.C. § 7501 *et seq.*,
 - (2) U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR part 1201, which incorporates by reference U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR part 200, and
 - (3) Most recent applicable U.S. OMB Compliance Supplement, 2 CFR part 200, appendix XI (previously known as the U.S. OMB Circular A-133 Compliance Supplement).
- l. It will comply with all other federal laws, regulations, and requirements that apply.
- m. It will follow federal guidance governing it and its Award, except as FTA has expressly approved otherwise in writing.

CATEGORY 02. LOBBYING.

Before FTA may provide federal assistance for a grant or cooperative agreement exceeding \$100,000 or a loan, line of credit, loan guarantee, or loan insurance exceeding \$150,000, you must select the Lobbying Certifications in Category 02, unless your Applicant is an Indian Tribe, Indian organization, or an Indian tribal organization exempt from the requirements of 31 U.S.C. § 1352, and/or except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 02 that does not apply will not be enforced.

On behalf of your Applicant, you certify that:

1. As required by 31 U.S.C. § 1352 and U.S. DOT regulations, “New Restrictions on Lobbying,” specifically 49 CFR § 20.110:
 - a. The lobbying restrictions of this Certification apply to its requests:
 - (1) For \$100,000 or more in federal assistance for a grant or cooperative agreement, and

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- (2) For \$150,000 or more in federal assistance for a loan, line of credit, loan guarantee, or loan insurance, and
- b. Your Certification on your Applicant's behalf applies to the lobbying activities of:
 - (1) The Applicant,
 - (2) Its Principals, and
 - (3) Its Subrecipients at the first tier.
2. To the best of your knowledge and belief:
 - a. No federal appropriated funds have been or will be paid by your Applicant or on its behalf to any person to influence or attempt to influence:
 - (1) An officer or employee of any federal agency regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance, or
 - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance.
 - b. Your Applicant will submit a complete OMB Standard Form LLL (Rev. 7-97), "Disclosure of Lobbying Activities," consistent with the instructions on that form, if any funds other than federal appropriated funds have been or will be paid to any person to influence or attempt to influence:
 - (1) An officer or employee of any federal agency regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance, or
 - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance.
 - c. Your Applicant will include the language of this Certification in its Award documents under a federal grant, cooperative agreement, loan, line of credit, or loan insurance including, but not limited to:
 - (1) Each third party contract,
 - (2) Each third party subcontract,
 - (3) Each subagreement, and
 - (4) Each third party agreement.
3. Your Applicant understands that:
 - a. This Certification is a material representation of fact that the Federal Government relies on, and
 - b. It must submit this Certification before the Federal Government may award federal assistance for a transaction covered by 31 U.S.C. § 1352, including a:
 - (1) Federal grant or cooperative agreement, or
 - (2) Federal loan, line of credit, loan guarantee, or loan insurance.
4. Your Applicant understands that any person who does not file a required Certification will incur a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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CATEGORY 03. PRIVATE SECTOR PROTECTIONS.

Before FTA may provide federal assistance for an Award that involves the acquisition of public transportation property or the operation of public transportation facilities or equipment, you must select the Private Property Protections Assurances in Category 03.A and enter into the Agreements in Category 03.B and Category 03.C on behalf of your Applicant, except as FTA determines otherwise in writing.

Any provision of the Assurances and Agreements in Category 03 that does not apply will not be enforced.

03.A. Private Property Protections.

If your Applicant is a state, local government, or Indian tribal government and seeks federal assistance from FTA to acquire the property of a private transit operator or operate public transportation in competition with or in addition to a public transportation operator, the Private Property Protections Assurances in Category 03.A apply to your Applicant, except as FTA determines otherwise in writing.

To facilitate FTA's ability to make the findings required by 49 U.S.C. § 5323(a)(1), on behalf of your Applicant, you assure that:

1. Your Applicant has or will have:
 - a. Determined that the federal assistance it has requested is essential to carrying out its Program of Projects as required by 49 U.S.C. §§ 5303, 5304, and 5306,
 - b. Provided for the participation of private companies engaged in public transportation to the maximum extent feasible, and
 - c. Paid just compensation under state or local laws to the company for any franchise or property acquired.
2. Your Applicant has completed the actions described in the preceding section 1 of this Category 03.A Certification before:
 - a. It acquires the property or an interest in the property of a private provider of public transportation, or
 - b. It operates public transportation equipment or facilities:
 - (1) In competition with transportation service provided by an existing public transportation operator, or
 - (2) In addition to transportation service provided by an existing public transportation operator.

03.B. Charter Service Agreement.

If your Applicant seeks federal assistance from FTA to acquire or operate transit facilities or equipment, the Charter Service Agreement in Category 03.B applies to your Applicant, except as FTA determines otherwise in writing.

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To comply with 49 U.S.C. § 5323(d) and (g) and FTA regulations, “Charter Service, 49 CFR part 604, specifically 49 CFR § 604.4, on behalf of your Applicant, you are entering into the following Charter Service Agreement:

1. FTA’s “Charter Service” regulations apply as follows:
 - a. FTA’s Charter Service regulations restrict transportation by charter service using facilities and equipment acquired or improved under an Award derived from:
 - (1) Federal transit laws, 49 U.S.C. chapter 53,
 - (2) 23 U.S.C. §§ 133 or 142, or
 - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
 - b. FTA’s charter service restrictions extend to:
 - (1) Your Applicant, when it receives federal assistance appropriated or made available for:
 - (a) Federal transit laws, 49 U.S.C. chapter 53,
 - (b) 23 U.S.C. §§ 133 or 142, or
 - (c) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
 - (2) Any Third Party Participant that receives federal assistance derived from:
 - (a) Federal transit laws, 49 U.S.C. chapter 53,
 - (b) 23 U.S.C. §§ 133 or 142, or
 - (c) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
 - c. A Third Party Participant includes any:
 - (1) Subrecipient at any tier,
 - (2) Lessee,
 - (3) Third Party Contractor or Subcontractor at any tier, and
 - (4) Other Third Party Participant in its Award.
 - d. You and your Applicant agree that neither it nor any governmental authority or publicly owned operator that receives federal public transportation assistance appropriated or made available for its Award will engage in charter service operations, except as permitted under:
 - (1) Federal transit laws, specifically 49 U.S.C. § 5323(d) and (g),
 - (2) FTA regulations, “Charter Service,” 49 CFR part 604, to the extent consistent with 49 U.S.C. § 5323(d) and (g),
 - (3) Any other federal Charter Service regulations, or
 - (4) Federal guidance, except as FTA determines otherwise in writing.
 - e. You and your Applicant agree that the latest Charter Service Agreement selected in its latest annual Certifications and Assurances is incorporated by reference and made part of the Underlying Agreement accompanying its Award of federal assistance from FTA.
 - f. You and your Applicant agree that:
 - (1) FTA may require corrective measures or impose remedies on it or any governmental authority or publicly owned operator that receives federal assistance from FTA that has demonstrated a pattern of violating of FTA’s Charter Service regulations by:
 - (a) Conducting charter operations prohibited by federal transit laws and FTA’s Charter Service regulations, or

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- (b) Otherwise violating its Charter Service Agreement selected in its latest annual Certifications and Assurances.
- (2) These corrective measures and remedies may include:
 - (a) Barring your Applicant or any Third Party Participant operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA,
 - (b) Withholding an amount of federal assistance as provided by Appendix D to FTA's Charter Service regulations, or
 - (c) Any other appropriate remedy that may apply.
- 2. In addition to the exceptions to the restrictions in FTA's Charter Service regulations, FTA has established the following additional exceptions to those restrictions:
 - a. FTA's Charter Service restrictions do not apply to your Applicant if it seeks federal assistance appropriated or made available under 49 U.S.C. §§ 5307 or 5311 to be used for Job Access and Reverse Commute (JARC) activities that would have been eligible for assistance under former 49 U.S.C. § 5316 in effect in FY 2012 or a previous fiscal year, provided that it uses that federal assistance from FTA for those program purposes only.
 - b. FTA's Charter Service restrictions do not apply to your Applicant if it seeks federal assistance appropriated or made available under 49 U.S.C. § 5310 to be used for New Freedom activities that would have been eligible for assistance under former 49 U.S.C. § 5317 in effect in FY 2012 or a previous fiscal year, provided it uses that federal assistance from FTA for those program purposes only.
 - c. An Applicant for assistance under 49 U.S.C. chapter 53 will not be determined to have violated the FTA Charter Service regulations if that Applicant provides a private intercity or charter transportation operator reasonable access to that Applicant's federally assisted public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes, as provided in 49 U.S.C. § 5323(r).

03.C. School Bus Agreement.

If your Applicant seeks federal assistance from FTA to acquire or operate transit facilities or equipment, the School Bus Agreement in Category 03.C applies to your Applicant, except as FTA determines otherwise in writing.

To comply with 49 U.S.C. § 5323(f) and (g) and FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. § 5323(f) and (g), your Applicant agrees to enter into the following School Bus Agreement:

- 1. FTA's "School Bus Operations" regulations at 49 CFR part 605 restricts school bus operations using facilities and equipment acquired or improved with federal assistance derived from:
 - a. Federal transit laws, 49 U.S.C. chapter 53,
 - b. 23 U.S.C. §§ 133 or 142, or
 - c. Any other Act that provides federal public transportation assistance, unless otherwise excepted.
- 2. FTA's school bus operations restrictions extend to:
 - a. Your Applicant, when it receives federal assistance appropriated or made available for:

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- (1) Federal transit laws, 49 U.S.C. chapter 53,
 - (2) 23 U.S.C. §§ 133 or 142, or
 - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
- b. Any Third Party Participant that receives federal assistance derived from:
 - (1) Federal transit laws, 49 U.S.C. chapter 53,
 - (2) 23 U.S.C. §§ 133 or 142, or
 - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
3. A Third Party Participant includes any:
 - a. Subrecipient at any tier,
 - b. Lessee,
 - c. Third Party Contractor or Subcontractor at any tier, and
 - d. Any other Third Party Participant in the Award.
4. You and your Applicant agree, and will obtain the agreement of any Third Party Participant, that it will not engage in school bus operations in competition with private operators of school buses, except as permitted under:
 - a. Federal transit laws, specifically 49 U.S.C. § 5323(f) and (g),
 - b. FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. § 5323(f) and (g),
 - c. Any other federal School Bus regulations, or
 - d. Federal guidance, except as FTA determines otherwise in writing.
5. You and your Applicant agree that the latest School Bus Agreement selected on its behalf in FTA's latest annual Certifications and Assurances is incorporated by reference and made part of the Underlying Agreement accompanying its Award of federal assistance.
6. You and your Applicant agree that after it is a Recipient, if it or any Third Party Participant has violated this School Bus Agreement, FTA may:
 - a. Bar your Applicant or Third Party Participant from receiving further federal assistance for public transportation, or
 - b. Require the Applicant or Third Party Participant to take such remedial measures as FTA considers appropriate.

CATEGORY 04. ROLLING STOCK REVIEWS AND BUS TESTING.

Before FTA may provide federal assistance for an Award to acquire rolling stock for use in revenue service or to acquire a new bus model, you must select the Rolling Stock Reviews and Bus Testing Certifications in Category 04, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 04 that does not apply will not be enforced.

04.A. Rolling Stock Reviews.

If your Applicant seeks federal assistance from FTA to acquire rolling stock for use in revenue service, the Rolling Stock Reviews Certifications in Category 04.A apply to your Applicant, except as FTA determines otherwise in writing.

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On behalf of your Applicant, you certify that, when procuring rolling stock for use in revenue service:

1. Your Applicant will comply with:
 - a. Federal transit laws, specifically 49 U.S.C. § 5323(m), and
 - b. FTA regulations, “Pre-Award and Post-Delivery Audits of Rolling Stock Purchases,” 49 CFR part 663, and
2. As provided in 49 CFR § 663.7:
 - a. Your Applicant will conduct or cause to be conducted the required pre-award and post-delivery reviews of that rolling stock, and
 - b. It will maintain on file the Certifications required by 49 CFR part 663, subparts B, C, and D.

04.B. Bus Testing.

If your Applicant seeks federal assistance from FTA to acquire a new bus model, the Bus Testing Certifications in Category 04.B apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that:

1. FTA’s bus testing requirements apply to all acquisitions of new buses and new bus models that require bus testing as defined in FTA’s Bus Testing regulations, and it will comply with:
 - a. 49 U.S.C. § 5318, and
 - b. FTA regulations, “Bus Testing,” 49 CFR part 665.
2. As required by 49 CFR § 665.7, when acquiring the first bus of any new bus model or a bus model with a major change in components or configuration, your Applicant will not spend any federal assistance appropriated under 49 U.S.C. chapter 53 to acquire that new bus or new bus model until:
 - a. That new bus or new bus model has been tested at FTA’s bus testing facility, and
 - b. It has received a copy of the test report prepared for that new bus or new bus model.
3. It will ensure that the new bus or new bus model that is tested has met the performance standards consistent with those regulations, including the:
 - a. Performance standards for:
 - (1) Maintainability,
 - (2) Reliability,
 - (3) Performance (including braking performance),
 - (4) Structural integrity,
 - (5) Fuel economy,
 - (6) Emissions, and
 - (7) Noise, and
 - b. Minimum safety performance standards established under 49 U.S.C. § 5329, when issued.
4. It will ensure that the new bus or new bus model that is tested has received a passing aggregate test score under the “Pass/Fail” standard established by regulation.

CATEGORY 05. DEMAND RESPONSIVE SERVICE.

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Before FTA may provide federal assistance to a public entity that operates demand responsive service for an Award to acquire a non-rail vehicle that is not accessible, you must select the Demand Responsive Service Certifications in Category 05, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 05 that does not apply will not be enforced.

As required by U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR part 37, specifically 49 CFR § 37.77(d), on behalf of your Applicant, you certify that:

1. Your Applicant offers public transportation services equivalent in level and quality of service to:
 - a. Individuals with disabilities, including individuals who use wheelchairs, and
 - b. Individuals without disabilities.
2. Viewed in its entirety, your Applicant’s service for individuals with disabilities is:
 - a. Provided in the most integrated setting feasible, and
 - b. Equivalent to the service it offers individuals without disabilities with respect to:
 - (1) Response time,
 - (2) Fares,
 - (3) Geographic service area,
 - (4) Hours and days of service,
 - (5) Restrictions on priorities based on trip purpose,
 - (6) Availability of information and reservation capability, and
 - (7) Constraints on capacity or service availability.

CATEGORY 06. INTELLIGENT TRANSPORTATION SYSTEMS.

Before FTA may provide federal assistance for an Award in support of an Intelligent Transportation System (ITS), you must select the Intelligent Transportation Systems Assurances in Category 06, except as FTA determines otherwise in writing.

Any provision of the Assurances in Category 06 that does not apply will not be enforced.

On behalf of your Applicant, you and your Applicant:

1. Understand that, as used in this Assurance, the term Intelligent Transportation System is defined to include technologies or systems of technologies that provide or significantly contribute to the provision of one or more Intelligent Transportation System (ITS) user services as defined in the “National ITS Architecture.”
2. Assure that, as provided in 23 U.S.C. § 517(d), any Award that includes an ITS or related activity financed with appropriations made available from the Highway Trust Fund, including amounts made available to deploy ITS facilities or equipment, will conform to the appropriate regional ITS architecture, applicable standards, and protocols developed under 23 U.S.C. § 517(a) or (c), unless it obtains a waiver as provided in 23 U.S.C. § 517(d)(2).

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CATEGORY 07. INTEREST AND FINANCING COSTS AND ACQUISITION OF CAPITAL ASSETS BY LEASE.

Before FTA may award federal assistance appropriated or made available under 49 U.S.C. chapter 53 to support the interest, financing, or leasing costs of any Award financed under the Urbanized Area Formula Grants Program, Fixed Guideway Capital Investment Grants Program, any program to which the requirements of 49 U.S.C. § 5307 apply, or any other program as FTA may specify, you must select the Certifications in Category 07, except as FTA may determine otherwise in writing.

Any provision of the Certifications and Assurances in Category 07 that does not apply will not be enforced.

07.A. Interest and Financing Costs.

If your Applicant intends to use federal assistance to support the interest or any other financing costs for an Award financed under the Urbanized Area Formula Grants Program, the Fixed Guideway Capital Investment Grants Program, the New Starts, Small Starts, and Core Capacity Programs, any program that must comply with the requirements of 49 U.S.C. § 5307, or any other program as FTA may specify, the Interest and Financing Costs Certifications in Category 07.A apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that:

1. It will not seek reimbursement for interest or any other financing costs unless:
 - a. It is eligible to receive federal assistance for those costs, and
 - b. Its records demonstrate that it has shown reasonable diligence in seeking the most favorable financing terms, as FTA may require.
2. It will comply with the same favorable financing cost provisions for Awards financed under:
 - a. The Urbanized Area Formula Grants Program,
 - b. A Full Funding Grant Agreement,
 - c. An Early Systems Work Agreement,
 - d. The Fixed Guideway Capital Investment Program financed by previous FTA enabling legislation,
 - e. Any program that must comply with the requirements of 49 U.S.C. § 5307, or
 - f. Any other program as FTA may specify.

07.B. Acquisition of Capital Assets by Lease.

If your Applicant seeks federal assistance from FTA to acquire capital assets (other than rolling stock or related equipment) through a lease, the Acquisition of Capital Assets by Lease Certifications and Assurances in Category 07.B apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify and assure that, as required by FTA regulations, “Capital Leases,” 49 CFR part 639, to the extent consistent with the FAST Act. If your

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Applicant acquires any capital asset (other than rolling stock or related equipment) through a lease financed with federal assistance appropriated or made available under 49 U.S.C. chapter 53, it will not enter into a capital lease for which FTA can provide only incremental federal assistance unless it has adequate financial resources to meet its future lease obligations if federal assistance is not available.

CATEGORY 08. TRANSIT ASSET MANAGEMENT PLAN, PUBLIC TRANSPORTATION AGENCY SAFETY PLAN, AND STATE SAFETY OVERSIGHT REQUIREMENTS.

Before FTA may provide federal assistance appropriated or made available under 49 U.S.C. chapter 53 to support an Award, you must select the Certifications in Category 08, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 08 that does not apply will not be enforced.

08.A. Transit Asset Management Plan.

If your Applicant applies for funding appropriated or made available for 49 U.S.C. chapter 53, the Transit Asset Management Certifications in Category 08.A apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that it and each of its Subrecipients will:

1. Comply with FTA regulations, "Transit Asset Management," 49 CFR part 625, and
2. Follow federal guidance that will implement the regulations at 49 CFR part 625.

08.B. Public Transportation Safety Program.

If your Applicant applies for funding under 49 U.S.C. chapter 53 and it is a State, local government authority, or any other operator of a public transportation system, the particular provisions under the Public Transportation Safety Program in Category 08.B apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that it will comply with applicable regulations, and follow federal guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

08.C. State Safety Oversight Requirements.

If your Applicant applies for funding under 49 U.S.C. chapter 53 and is in a state with a rail fixed guideway public transportation system, Category 08.C applies to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, if it is a state and has a rail fixed guideway public transportation system, you certify that:

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1. The Applicant will comply with FTA regulations, “State Safety Oversight,” 49 CFR part 659, until the Applicant has a certified State Safety Oversight Program under the regulations at 49 CFR part 674.
2. For those Applicants that do have a certified State Safety Oversight Program, the Applicant will comply with the regulations at 49 CFR part 674.
3. For those Applicants that do not have a certified State Safety Oversight Program, the Applicant will make progress towards meeting the April 15, 2019, State Safety Oversight Program certification deadline.

CATEGORY 09. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

If your Applicant must comply with the alcohol and controlled substance testing requirements of 49 U.S.C. § 5331 and its implementing regulations, before FTA may provide federal assistance for an Award, you must select the Certifications in Category 09, except as FTA may determine otherwise in writing.

Any provision of the Certifications in Category 09 that does not apply will not be enforced.

As required by 49 U.S.C. § 5331, and FTA regulations, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations,” 49 CFR part 655, subpart I, specifically 49 CFR § 655.83, on behalf of your Applicant, including an Applicant that is a state, and on behalf of its Subrecipients and Third Party Contractors, you certify that:

1. Your Applicant, its Subrecipients, and Third Party Contractors to which these testing requirements apply have established and implemented:
 - a. An alcohol misuse testing program, and
 - b. A controlled substance testing program.
2. Your Applicant, its Subrecipients, and its Third Party Contractors to which these testing requirements apply have complied or will comply with all applicable requirements of 49 CFR part 655 to the extent those regulations are consistent with 49 U.S.C. § 5331.
3. Consistent with U.S. DOT Office of Drug and Alcohol Policy and Compliance Notice, issued October 22, 2009, if your Applicant, its Subrecipients, or its Third Party Contractors to which these testing requirements apply reside in a state that permits marijuana use for medical or recreational purposes, your Applicant, its Subrecipients, and its Third Party Contractors to which these testing requirements apply have complied or will comply with the federal controlled substance testing requirements of 49 CFR part 655.

CATEGORY 10. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS PROGRAM (NEW STARTS, SMALL STARTS, AND CORE CAPACITY IMPROVEMENT).

Before FTA may provide federal assistance for an Award financed under the New Starts, Small Starts, or Core Capacity Improvement Program authorized under 49 U.S.C. § 5309, you must select the Certifications in Category 10, except as FTA may determine otherwise in writing.

Any provision of the Certifications in Category 10 that does not apply will not be enforced.

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Except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625,
4. It will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304, and
5. It will comply with FTA guidance, "Final Interim Policy Guidance, Federal Transit Administration Capital Investment Grant Program," June 2016.

CATEGORY 11. STATE OF GOOD REPAIR PROGRAM.

Before FTA may provide federal assistance for an Award financed under the State of Good Repair Program authorized under 49 U.S.C. § 5337, you must select the Certifications in Category 11, except as FTA determines otherwise in writing.

Any provision of the Assurance in Category 11 that does not apply will not be enforced.

On behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award,
3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the Applicant's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625, and
4. It will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.

CATEGORY 12. GRANTS FOR BUSES AND BUS FACILITIES AND LOW OR NO EMISSION VEHICLE DEPLOYMENT GRANT PROGRAMS

Before FTA may provide federal assistance for an Award under the Buses and Bus Facilities Program authorized under 49 U.S.C. § 5339, as amended by the FAST Act, which authorizes grants for formula and competitive Bus and Bus Facilities and Low or No Emission buses or an award under the Low or No Emission Vehicle Development Program authorized under former 49 U.S.C. § 5312(d)(5), you must select the Certifications in Category 12, except as FTA determines otherwise in writing.

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Any provision of the Certifications in Category 12 that does not apply will not be enforced.

12.A. Grants for Buses and Bus Facilities Program

The following Certifications for the Grants for Buses and Bus Facilities Program and Low or No Emission Buses are required by 49 U.S.C. § 5339, as amended by the FAST Act, which provides that the requirements of 49 U.S.C. § 5307 shall apply to Recipients of grants made in urbanized areas and under the Low or No Emission Bus Program, 49 U.S.C. § 5339(c) The requirements of 49 U.S.C. § 5311 shall apply to Recipients of Bus and Bus Facilities grants made in rural areas. Therefore:

1. If your Applicant is in an urbanized area, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
 - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
 - c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
 - d. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5339 during non-peak hours for transportation, Applicants in an urbanized area will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
 - (1) Any senior,
 - (2) Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act, 42 U.S.C. § 401 *et seq.*, and
 - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act, 42 U.S.C. § 1395 *et seq.*
 - e. When carrying out a procurement under 49 U.S.C. § 5339, it will comply with:
 - (1) The applicable general provisions of 49 U.S.C. § 5323, and
 - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.
 - f. It has complied with or will comply with 49 U.S.C. § 5307(b).
 - g. As required by 49 U.S.C. § 5307(d):
 - (1) It has or will have the amount of funds required for the non-federal share,
 - (2) It will provide the non-federal share from sources approved by FTA, and
 - (3) It will provide the non-federal share when needed.
 - h. It will comply with:
 - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and

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- (2) The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
- i. It has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation service.
- j. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.
2. Except as FTA determines otherwise in writing, if your Applicant is in a rural area, you certify, on behalf of your Applicant, that:
 - a. It has or will have and require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have and require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
 - c. It will maintain and require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
 - d. Its state program has provided for a fair distribution of federal assistance appropriated or made available under 49 U.S.C. § 5311(b) within the state to eligible entities, including Indian reservations.
 - e. Its program provides or will provide the maximum feasible coordination of federal assistance for public transportation service with transportation service financed by other federal sources.
 - f. Its Awards and Subawards in its Formula Grants for the Rural Areas Program are included in:
 - (1) The statewide transportation improvement program, and
 - (2) To the extent applicable, a metropolitan transportation improvement program.
 - g. With respect to the non-federal share:
 - (1) It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by 49 U.S.C. § 5311(g),
 - (2) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and
 - (3) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.
 - h. It may transfer a facility or equipment acquired or improved under its Award to any other entity eligible to receive assistance under 49 U.S.C. chapter 53, if:
 - (1) The Recipient possessing the facility or equipment consents to the transfer, and
 - (2) The facility or equipment will continue to be used as required under 49 U.S.C. § 5311.

12.B. Low or No Emission Vehicle Deployment.

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If your Applicant seeks federal assistance from FTA for an Award financed under the Low or No Emission Vehicle Development Program authorized under former 49 U.S.C. § 5312(d)(5), the Certifications and Assurances in Category 12.B apply to your Applicant, except as FTA determines otherwise in writing.

Former section 5312(d)(5)(C)(i) of title 49, United States Code, requires the following Certifications for Low or No Emission Vehicle Deployment Program before awarding federal assistance appropriated or made available under MAP-21. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify and assure that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with its transit management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
4. When using or involving a facility or equipment acquired or improved with federal assistance under former 49 U.S.C. § 5312(d)(5) during non-peak hours for transportation, it will charge a fare not exceeding fifty (50) percent of the peak hour to the following individuals:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, a congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or who has semi-ambulatory capability) and is unable to use a public transportation service or a public transportation facility effectively without special facilities, special planning, or special design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act, 42 U.S.C. § 401 *et seq.*, and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act, 42 U.S.C. § 1395 *et seq.*
5. When carrying out a procurement under this Program, it will comply with:
 - a. The applicable general provisions of 49 U.S.C. § 5323, and
 - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. It has complied with or will comply with 49 U.S.C. § 5307(b) because:
 - a. It has informed or will inform the public of the amounts of its federal assistance available under this Program,
 - b. It has developed or will develop, in consultation with interested parties including private transportation providers, its proposed Program of Projects for activities to be financed,
 - c. It has published or will publish its proposed Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Projects and its performance as an Applicant,
 - d. It has provided or will provide an opportunity for a public hearing to obtain the views of individuals on its proposed Program of Projects,
 - e. It has assured or will assure that its proposed Program of Projects provides for coordination of public transportation services assisted under 49 U.S.C. § 5336, as

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- amended by the FAST Act, with federally assisted transportation services supported by other federal sources,
- f. It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and
 - g. It has made or will make the final list of Projects for which an Award is sought available to the public.
7. With respect to the non-federal share:
 - a. It has or will have the amount of funds required for the non-federal share,
 - b. It will provide the non-federal share from sources approved by FTA, and
 - c. It will provide the non-federal share when needed.
 8. It will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
 9. It has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation service.
 10. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

CATEGORY 13. URBANIZED AREA FORMULA GRANTS PROGRAMS AND PASSENGER FERRY GRANT PROGRAM.

Before FTA may provide federal assistance for an Award financed under the Urbanized Area Formula Grants Program authorized under 49 U.S.C. § 5307, as amended by the FAST Act, which authorizes federal assistance for Job Access and Reverse Commute (JARC) activities, and the Passenger Ferry Grant Program authorized under 49 U.S.C. § 5307(h), you must select the Certifications in Category 13, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 13 that does not apply will not be enforced.

13.A. Urbanized Area Formula Grants Program under the FAST Act.

If your Applicant seeks federal assistance from FTA for an Award financed under the Urbanized Area Formula Grants Program authorized under 49 U.S.C. § 5307, as amended by the FAST Act, the Certifications in Category 13.A apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications for the Urbanized Area Formula Grants Program under 49 U.S.C. § 5307, as amended by the FAST Act, are required by 49 U.S.C. § 5307(c)(1). Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.

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3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, “Transit Asset Management,” 49 CFR part 625,
4. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5307 during non-peak hours for transportation, it will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act, 42 U.S.C. § 401 *et seq.*, and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act, 42 U.S.C. § 1395 *et seq.*
5. When carrying out a procurement under 49 U.S.C. § 5307, it will comply with:
 - a. The applicable general provisions of 49 U.S.C. § 5323, and
 - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. It has complied with or will comply with 49 U.S.C. § 5307(b) because:
 - a. It has made or will make available to the public information on the amounts of federal assistance available to it under 49 U.S.C. § 5307,
 - b. It has developed or will develop, in consultation with interested parties including private transportation providers, its proposed Program of Projects for activities for which federal assistance is sought,
 - c. It has published or will publish its proposed Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on its proposed Program of Projects and its performance as an Applicant or Recipient,
 - d. It has provided or will provide an opportunity for a public hearing to obtain the views of individuals on its proposed Program of Projects,
 - e. It has ensured or will ensure that its proposed Program of Projects provides for coordination of transportation services financed by FTA under 49 U.S.C. § 5336, as amended by the FAST Act, with transportation services supported by other Federal Government sources,
 - f. It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
 - g. It has made or will make its final Program of Projects available to the public.
7. As required by 49 U.S.C. § 5307(d):
 - a. It has or will have the amount of funds required for the non-federal share,
 - b. It will provide the non-federal share from sources approved by FTA, and
 - c. It will provide the non-federal share when needed.
8. As required by 49 U.S.C. § 5307(c)(1)(H), it will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and

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- b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
9. As required by 49 U.S.C. § 5307(c)(1)(I), it has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation.
10. Each fiscal year:
 - a. It will assure that at least one (1) percent of the amount of federal assistance under 49 U.S.C. § 5307 apportioned to its urbanized area must be expended for Public Transportation Security activities as described in 49 U.S.C. § 5307(c)(1)(J)(i) including:
 - (1) Increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages),
 - (2) Increased camera surveillance of an area in or adjacent to that system,
 - (3) Emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and
 - (4) Any other activity intended to increase the security and safety of an existing or planned public transportation system, or
 - b. The Designated Recipients in its urbanized area certify that such expenditures for Public Transportation Security activities are not necessary.
11. If it serves an urbanized area with a population of at least 200,000 individuals, as determined by the Bureau of the Census:
 - a. It will provide a report by the end of the fourth quarter of the preceding federal fiscal year that lists projects carried out in the preceding fiscal year under this section for associated transit improvements as defined in 49 U.S.C. § 5302, and
 - b. The report of its Associated Transit Improvements or related activities is or will be incorporated by reference and made part of its Certifications and Assurances.
12. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

13.B. Passenger Ferry Grant Program.

If your Applicant seeks federal assistance from FTA for an Award financed under the Passenger Ferry Grant Program authorized under 49 U.S.C. § 5307(h), as amended by the FAST Act, the Certifications in Category 13.B apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications for the Passenger Ferry Grant Program are required by 49 U.S.C. § 5307(c)(1) or (h). Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.

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3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, “Transit Asset Management,” 49 CFR part 625.
4. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5307(h) during non-peak hours for transportation, it will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act, 42 U.S.C. § 401 *et seq.*, and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act, 42 U.S.C. § 1395 *et seq.*
5. When carrying out a procurement under 49 U.S.C. § 5307(h), it will comply with:
 - a. The applicable general provisions of 49 U.S.C. § 5323, and
 - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. As required by 49 U.S.C. § 5307(d):
 - a. It has or will have the amount of funds required for the non-federal share,
 - b. It will provide the non-federal share from sources approved by FTA, and
 - c. It will provide the non-federal share when needed.
7. As required by 49 U.S.C. § 5307(c)(1)(H), it will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
8. As required by 49 U.S.C. § 5307(c)(1)(I), it has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation service.
9. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

CATEGORY 14. ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAMS.

Before FTA may provide federal assistance for an Award financed under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program authorized under 49 U.S.C. § 5310, as amended by the FAST Act, or the Pilot Program for Innovative Coordinated Access and Mobility under Section 3006(b) of the FAST Act, you must select the Certifications in Category 14, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 14 that does not apply will not be enforced.

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1. The following Certifications for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program are required by 49 U.S.C. § 5310. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
 - a. Each Subrecipient is:
 - (1) A private nonprofit organization, or
 - (2) A state or local governmental authority that:
 - (a) Is approved by a state to coordinate services for seniors and individuals with disabilities, or
 - (b) Certifies that there are no private nonprofit organizations readily available in the area to provide the services authorized for support under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program.
 - b. Your Applicant will comply with the following selection and planning requirements:
 - (1) The Projects it has selected or will select for an Award or Subaward of federal assistance appropriated or made available under 49 U.S.C. § 5310 are included in a public transit-human services transportation plan that has been:
 - (a) Locally developed, and
 - (b) Coordinated.
 - (2) The public transit-human services transportation plan was developed and approved through a process that included participation by:
 - (a) Seniors,
 - (b) Individuals with disabilities,
 - (c) Representatives of public, private, and nonprofit transportation providers,
 - (d) Representatives of public, private, and nonprofit human services providers, and
 - (e) Other members of the public.
 - (3) Within its Award, the Projects selected to receive federal assistance will assist in providing transportation services for seniors and individuals with disabilities are included in its Program of Projects submitted to FTA annually.
 - (4) To the maximum extent feasible, the services financed by 49 U.S.C. § 5310 will be coordinated with transportation services financed by other federal departments and agencies, including any transportation activities carried out by a Recipient of federal assistance from the Department of Health and Human Services.
 - c. As required by 49 U.S.C. § 5310(e)(2)(B), it certifies that if it allocates federal assistance received under 49 U.S.C. § 5310 to any Subrecipient, it will have allocated that federal assistance on a fair and equitable basis.
 - d. It will not transfer a facility or equipment acquired or improved with federal assistance appropriated or made available for a grant under 49 U.S.C. § 5310 to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, unless:
 - (1) The Recipient possessing the facility or equipment consents to the transfer, and
 - (2) The facility or equipment will continue to be used as required under 49 U.S.C. § 5310.
 - e. As required by 49 U.S.C. § 5310(b)(2), it will use at least fifty-five (55) percent of the federal assistance it receives for Capital Projects to meet the special needs of seniors and individuals with disabilities.

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- f. The requirements of 49 U.S.C. § 5307, as determined by FTA, will apply to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program authorized by 49 U.S.C. § 5310.
2. FTA has determined that certain requirements of 49 U.S.C. § 5307 are appropriate for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, some of which require Certifications. Therefore, as specified under 49 U.S.C. § 5307(c)(1), your Applicant certifies that:
 - a. It has or will have and will require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have and will require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award or Subaward.
 - c. It will maintain and will require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award or Subaward, in accordance with its transit asset management plan and consistent with FTA regulations, “Transit Asset Management,” 49 CFR part 625.
 - d. When carrying out a procurement under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, it will require each Subrecipient to comply with:
 - (1) The applicable general provisions of 49 U.S.C. § 5323, and
 - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.
 - e. With respect to the non-federal share:
 - (1) It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by 49 U.S.C. § 5310,
 - (2) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and
 - (3) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.
 - f. It has complied or will comply and will require each Subrecipient to comply with:
 - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - (2) The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
 - g. To the extent applicable, it will and will require its Subrecipients to comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

CATEGORY 15. RURAL AREAS AND APPALACHIAN DEVELOPMENT PROGRAMS.

Before FTA may provide federal assistance for an Award financed under the Formula Grants for Rural Areas Program authorized under 49 U.S.C. § 5311(b), as amended by FAST Act, and the Appalachian Development Public Transportation Assistance Program authorized under

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49 U.S.C. § 5311(c)(2), as amended by FAST Act, you must select the Certifications in Category 15, except as FTA determines otherwise in writing.

Any provision of the Certifications and Assurances in Category 15 that does not apply will not be enforced.

15.A. Formula Grants for Rural Areas Program.

If your Applicant seeks federal assistance from FTA for an Award financed under the Formula Grants for the Rural Areas Program authorized under 49 U.S.C. § 5311, the Certifications in Category 15.A apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications apply to each state or state organization serving as your Applicant for federal assistance appropriated or made available for the Rural Areas Formula Program financed under 49 U.S.C. § 5311(b), as amended by FAST Act. On its behalf, you certify and assure that:

1. It has or will have and require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have and require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain and require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
4. It will and will require each Subrecipient to comply with applicable regulations and guidance that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.
5. Its state program has provided for a fair distribution of federal assistance appropriated or made available under 49 U.S.C. § 5311(b) within the state to eligible entities, including Indian reservations.
6. Its program provides or will provide the maximum feasible coordination of federal assistance for public transportation service authorized by 49 U.S.C. § 5311(b) with transportation service financed by other federal sources.
7. Its Awards and Subawards in its Formula Grants for the Rural Areas Program are included in:
 - a. The statewide transportation improvement program, and
 - b. To the extent applicable, a metropolitan transportation improvement program.
8. With respect to the non-federal share:
 - a. It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by former 49 U.S.C. § 5311(g),
 - b. It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and
 - c. It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.

FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

9. It may transfer a facility or equipment acquired or improved under its Award to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
 - a. The Recipient possessing the facility or equipment consents to the transfer, and
 - b. The facility or equipment will continue to be used as required under 49 U.S.C. § 5311.
10. Each fiscal year:
 - a. It will spend at least fifteen (15) percent of its federal assistance authorized under 49 U.S.C. § 5311 and available that fiscal year for eligible activities to develop and support intercity bus transportation within the state including:
 - (1) Planning and marketing for intercity bus transportation,
 - (2) Capital grants for intercity bus facilities.
 - b. If it will spend less than fifteen (15) percent of its federal assistance authorized under 49 U.S.C. § 5311 and available that fiscal year for eligible activities to develop and support intercity bus transportation within the state, it will provide to FTA a Certification from the governor of the state that:
 - (1) It has consulted with the affected intercity bus service providers about the intercity bus needs of the state, and
 - (2) The state's intercity bus service needs are being met adequately.

15.B. Appalachian Development Public Transportation Assistance Program.

If your Applicant seeks federal assistance from FTA for an Award financed under the Appalachian Development Public Transportation Assistance Program authorized under 49 U.S.C. § 5311(c)(2), the Certifications in Category 15.B apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify and assure that, if it is unable to use its federal assistance made available or appropriated for public transportation operating assistance, in accordance with 49 U.S.C. § 5311(c)(2)(D), it may use the federal assistance for a Highway Project only after:

1. It provides notice and an opportunity for comment and appeal to affected public transportation providers,
2. It approves such use in writing, and
3. In approving the use, it determines that local transit needs are being addressed.

CATEGORY 16. TRIBAL TRANSIT PROGRAMS (PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS PROGRAMS).

Before FTA may provide federal assistance for an Award financed under either the Public Transportation on Indian Reservations Formula or Discretionary Program authorized under 49 U.S.C. § 5311(c)(1), as amended by the FAST Act, (Tribal Transit Programs), you must select the Certifications in Category 16, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 16 that does not apply will not be enforced.

FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

FTA has established terms and conditions for Tribal Transit Program grants financed with federal assistance appropriated or made available under 49 U.S.C. § 5311(c)(1). On behalf of your Applicant, you certify and assure that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625. Its Award will achieve maximum feasible coordination with transportation service financed by other federal sources.
4. With respect to its procurement system:
 - a. It will have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 200, for Awards made on or after December 26, 2014,
 - b. It will have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 CFR part 18, specifically former 49 CFR § 18.36, for Awards made before December 26, 2014, or
 - c. It will inform FTA promptly if its procurement system does not comply with either of those U.S. DOT regulations.
5. It will comply with the Certifications, Assurances, and Agreements in:
 - a. Category 03.B and 03.C (Charter Service Agreement and School Bus Agreement),
 - b. Category 04.A and 04.B (Rolling Stock Reviews and Bus Testing),
 - c. Category 05 (Demand Responsive Service),
 - d. Category 06 (Intelligent Transportation Systems),
 - e. Category 08.A and 08.B (Transit Asset Management Plan and Public Transportation Safety Program), and
 - f. Category 09 (Alcohol and Controlled Substances Testing).

CATEGORY 17. STATE SAFETY OVERSIGHT GRANT PROGRAM.

Before FTA may provide federal assistance for an Award financed under the State Safety Oversight Grant Program authorized under 49 U.S.C. § 5329(e)(6), you must select the Certifications in Category 17, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 17 that does not apply will not be enforced.

On behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.

FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

2. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with the its transit asset management plan and consistent with FTA regulations, “Transit Asset Management,” 49 CFR part 625.
4. When carrying out a procurement under its Award, it will comply with:
 - a. The applicable general provisions of 49 U.S.C. § 5323, and
 - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
5. As required by 49 U.S.C. § 5329(e)(6)(C):
 - a. It has or will have the amount of funds required for the non-federal share,
 - b. It will provide the non-federal share only from sources approved by FTA, and will not be met by:
 - (1) Any federal assistance,
 - (2) Any funds received from a public transportation agency, or
 - (3) Any revenues earned by a public transportation agency, and
 - c. Will provide the non-federal share when needed.
6. Depending on how far your Applicant has progressed in developing a certified State Safety Oversight program under 49 CFR part 674, the following FTA regulations will apply:
 - a. States With a Certified Program. Your Applicant agrees that FTA regulations, “State Safety Oversight,” 49 CFR part 674, will apply;
 - b. States Without a Certified Program. Your Applicant agrees that FTA regulations, “Rail Fixed Guideway Systems; State Safety Oversight,” 49 CFR part 659, will continue to apply to those states that do not have a certified Program as required by 49 U.S.C. § 5329(e) and 49 CFR part 674.

CATEGORY 18. PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.

Before FTA may provide federal assistance for an Award financed under the Public Transportation Emergency Relief Program authorized under 49 U.S.C. § 5324, you must select the Certifications in Category 18, except as FTA determines otherwise in writing.

Any provision of the Assurance in Category 18 that does not apply will not be enforced.

As required by 49 U.S.C. § 5324(d), on behalf of your Applicant, you assure that it will:

1. Comply with the requirements of the Certifications and Assurances as FTA determines will apply to an Applicant for federal assistance appropriated or made available for the Public Transportation Emergency Relief Program, and
2. Comply with FTA regulations, “Emergency Relief,” 49 CFR part 602.

CATEGORY 19. EXPEDITED PROJECT DELIVERY PILOT PROGRAM.

Before FTA may provide federal assistance for an Award financed under the Expedited Project Delivery Pilot Program authorized under section 3005(b) of the FAST Act, you must select the Certifications in Category 19, except as FTA determines otherwise in writing.

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To the extent that any Certification in Category 19 does not apply, it will not be enforced.

As required by section 3005(b)(3)(B) of the FAST Act, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with its transit asset management plan and consistent with FTA regulations, “Transit Asset Management,” 49 CFR part 625.
4. It will comply with:
 - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.

CATEGORY 20. INFRASTRUCTURE FINANCE PROGRAMS.

Before FTA may provide credit assistance for an Award that also is or will be financed under the Transportation Infrastructure Finance and Innovation Act (TIFIA) Program authorized under 23 U.S.C. §§ 601 – 609, or the State Infrastructure Banks (SIB) Program authorized under 23 U.S.C. § 610, you must select the Certifications in Category 20.

If the Applicant does not receive credit assistance under the TIFIA or SIB programs, the Certifications and Assurances in Category 20 will not be enforced.

20.A. Transportation Infrastructure Finance and Innovation Act (TIFIA) Program.

If your Applicant seeks federal assistance from FTA for an Award that also is or will be financed under the TIFIA Program authorized under 23 U.S.C. §§ 601 – 609 the Certifications and Assurances in Category 20.A apply to your Applicant. In administering this Program, the FAST Act cross-cutting requirements supersede inconsistent former requirements.

On behalf of your Applicant, you certify and assure, as required by 49 U.S.C. § 5323(o), that federal transit laws, specifically 49 U.S.C. § 5307, 49 U.S.C. § 5309, and 49 U.S.C. § 5337, apply to any Project under 49 U.S.C. chapter 53 that receives TIFIA credit assistance under 23 U.S.C. §§ 601 – 609.

1. To comply with 49 U.S.C. §5307, specifically 49 U.S.C. § 5307(c)(1), on your Applicant’s behalf, you certify that:
 - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.

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- c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
 - d. For transportation during non-peak hours and using or involving a facility or equipment of an Award financed using 49 U.S.C. § 5307 funds, it will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
 - (1) Any senior,
 - (2) Any individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act, 42 U.S.C. § 401 *et seq.*, and
 - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act, 42 U.S.C. § 1395 *et seq.*
 - e. When carrying out a TIFIA-financed procurement, the Applicant will comply with:
 - (1) The applicable provisions of 49 U.S.C. § 5323, and
 - (2) The applicable provisions of 49 U.S.C. § 5325.
 - f. It has complied with or will comply with 49 U.S.C. § 5307(b).
 - g.
 - (1) It has or will have no more than 80 percent of the Total Award Budget as the sum of all federal grants and any TIFIA-financed awards,
 - (2) It will provide the non-federal share from sources approved by FTA, and
 - (3) It will provide the non-federal share when needed.
 - h. It will comply with:
 - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - (2) The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
 - i. It has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation.
 - j. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.
2. To comply with the interest and financing costs restrictions of 49 U.S.C. chapter 53, it agrees that it will not seek reimbursement for interest or any other financing costs incurred in connection with its Award that must be in compliance with those requirements unless:
 - a. It is eligible to receive federal assistance for those expenses, and
 - b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.
 3. It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*).
 4. Pursuant to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 5321 *et seq.*, the Project will qualify for an environmental categorical exclusion or receive a finding of no significant impact or a record of decision under NEPA before the Applicant undertakes activities for which it expects to receive federal assistance.

FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

5. It agrees that it will adopt a transit asset management plan that complies with regulations implementing 49 U.S.C. § 5326(d).

20.B. State Infrastructure Banks (SIB) Program.

If your Applicant is a state and seeks federal assistance from FTA for a project that also is or will be financed under the SIB Program authorized under 23 U.S.C. § 610, the Certifications and Assurances in Category 20.B apply to your state and its Award, except as the Secretary determines in writing. In administering this Program, the FAST Act cross-cutting requirements supersede inconsistent former requirements.

On behalf of the state Applicant for federal assistance for its SIB Program, you certify and assure that:

1. It will comply with the following applicable federal laws establishing the various SIB Programs since 1995:
 - a. 23 U.S.C. § 610,
 - b. Section 1511 of TEA-21, 23 U.S.C. § 181 note, or
 - c. Section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. § 181.
2. It will comply with or follow the Grant Agreement between it and FTA that provides federal assistance to the SIB, including the FTA Master Agreement, which is incorporated by reference into the Grant Agreement, except that, unless FTA determines otherwise in writing, a provision of the FTA Master Agreement incorporated by reference into that Grant Agreement will not apply if it conflicts with any provision of:
 - a. 23 U.S.C. § 610, as amended by the FAST Act,
 - b. 23 U.S.C. § 610 or its predecessor before the FAST Act was signed into law,
 - c. Section 1511 of TEA-21, 23 U.S.C. § 181 note, or section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. § 181 note,
 - d. Federal guidance pertaining to the SIB Program,
 - e. The SIB Cooperative Agreement establishing the state's SIB Program,
 - f. The Grant Agreement with FTA.
3. As required by 49 U.S.C. § 5323(o), federal transit laws, specifically 49 U.S.C. § 5307, 49 U.S.C. § 5309, and 49 U.S.C. § 5337, as amended by the FAST Act, apply to any Award under 49 U.S.C. chapter 53 that receives SIB support or financing under title 23, United States Code.
4. As required by 49 U.S.C. § 5323(o) and 49 U.S.C. § 5307(c)(1):
 - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
 - b. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
 - c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
 - d. When using or involving a facility or equipment acquired or improved with federal assistance under a SIB-financed Award during non-peak hours for transportation, it will

FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

- charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
- (1) Any senior,
 - (2) Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act, 42 U.S.C. § 401 *et seq.*, and
 - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act, 42 U.S.C. § 1395 *et seq.*
- e. When carrying out a procurement under a SIB-financed Award, it will comply with:
 - (1) The applicable general provisions of 49 U.S.C. § 5323, and
 - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.
 - f. It has complied with or will comply with 49 U.S.C. § 5307(b).
 - g. It has or will have or provide:
 - (1) The amount of funds required for the non-federal share by the SIB Program, but not less than twenty-five (25) percent of each capitalization grant,
 - (2) The non-federal share from sources approved by FTA, and
 - (3) The non-federal share when needed.
 - h. It will comply with:
 - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
 - (2) The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
 - i. It has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation.
 - j. It will comply with applicable regulations, a guidance, and directives that implement the Public Transportation Safety Program provisions of § 5329(b)-(d), except as FTA determines otherwise in writing.
5. As required by 49 U.S.C. chapter 53, it certifies that it will not seek reimbursement for interest or any other financing costs incurred in connection with its Award unless:
 - a. It is eligible to receive federal assistance for those expenses, and
 - b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, as FTA may require.
 6. It agrees that it will adopt a transit asset management plan that complies with FTA regulations, "Transit Asset Management," 49 CFR part 625.

CATEGORY 21. CONSTRUCTION HIRING PREFERENCES.

Before FTA may provide federal assistance for a third party contract for construction hiring financed under title 49 U.S.C. or title 23 U.S.C. using a geographic, economic, or any other hiring preference not otherwise authorized by federal law or regulation, you must select the

FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

Certifications in Category 21 on behalf of your Applicant, except as FTA determines otherwise in writing.

Any provision of the Certifications in Category 21 that does not apply will not be enforced.

As provided by section 192 of division L, title I of the Consolidated Appropriations Act, 2017, Public Law No. 114-113, on behalf of your Applicant, you certify that if, in connection with any third party contract for construction hiring financed under title 49 U.S.C. or title 23 U.S.C., it uses a geographic, economic, or any other hiring preference not otherwise authorized by law or prohibited under 2 CFR § 200.319(b):

1. Except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the work that the third party contract requires resides in the jurisdiction where the work will be performed,
2. It will include appropriate provisions in its bid document ensuring that its third party contractor(s) do not displace any of its existing employees in order to satisfy such hiring preference, and
3. That any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the applicable Statewide Transportation Improvement Program or Transportation Improvement Program.

Selection and Signature Page(s) follow.

FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

**FEDERAL FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES FOR
FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS**

(Signature pages alternative to providing Certifications and Assurances in TrAMS)

Name of Applicant: _____

The Applicant agrees to comply with applicable provisions of Categories 01 – 21. _____

OR

The Applicant agrees to comply with applicable provisions of the Categories it has selected:

<u>Category</u>	<u>Description</u>	
01.	Required Certifications and Assurances for Each Applicant.	_____
02.	Lobbying.	_____
03.	Private Sector Protections.	_____
04.	Rolling Stock Reviews and Bus Testing.	_____
05.	Demand Responsive Service.	_____
06.	Intelligent Transportation Systems.	_____
07.	Interest and Financing Costs and Acquisition of Capital Assets by Lease.	_____
08.	Transit Asset Management Plan, Public Transportation Safety Program, and State Safety Oversight Requirements.	_____
09.	Alcohol and Controlled Substances Testing.	_____
10.	Fixed Guideway Capital Investment Grants Program (New Starts, Small Starts, and Core Capacity Improvement).	_____
11.	State of Good Repair Program.	_____
12.	Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs.	_____
13.	Urbanized Area Formula Grants Programs and Passenger Ferry Grant Program.	_____
14.	Enhanced Mobility of Seniors and Individuals with Disabilities Programs.	_____
15.	Rural Areas and Appalachian Development Programs.	_____
16.	Tribal Transit Programs (Public Transportation on Indian Reservations Programs).	_____
17.	State Safety Oversight Grant Program.	_____
18.	Public Transportation Emergency Relief Program.	_____
19.	Expedited Project Delivery Pilot Program.	_____
20.	Infrastructure Finance Programs.	_____
21.	Construction Hiring Preferences.	_____

FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

FEDERAL FISCAL YEAR 2018 FTA CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE

(Required of all Applicants for federal assistance to be awarded by FTA in FY 2018)

AFFIRMATION OF APPLICANT

Name of the Applicant: _____

Name and Relationship of the Authorized Representative: _____

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all federal laws, regulations, and requirements, follow applicable federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in federal fiscal year 2018, irrespective of whether the individual that acted on his or her Applicant's behalf continues to represent it.

FTA intends that the Certifications and Assurances the Applicant selects on the other side of this document should apply to each Award for which it now seeks, or may later seek federal assistance to be awarded during federal fiscal year 2018.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. § 1001 apply to any certification, assurance, or submission made in connection with a federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

Signature _____ Date: _____

Name _____

Authorized Representative of Applicant

AFFIRMATION OF APPLICANT'S ATTORNEY

For (Name of Applicant): _____

As the undersigned Attorney for the above-named Applicant, I hereby affirm to the Applicant that it has authority under state, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on it.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of its FTA assisted Award.

Signature _____ Date: _____

Name _____

Attorney for Applicant

Each Applicant for federal assistance to be awarded by FTA must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its electronic signature in lieu of the Attorney's signature within TrAMS, provided the Applicant has on file and uploaded to TrAMS this hard-copy Affirmation, signed by the attorney and dated this federal fiscal year.

Enhanced Mobility of Seniors and Individuals with Disabilities

FTA Section 5310 Funds

PROGRAM MANAGEMENT PLAN (PMP)



Prepared By

THE CITY OF CONCORD

Concord, NC Urbanized Area
Designated Recipient

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I. Program Management Plan Overview

A. Introduction

To meet the public transportation needs of a rapidly growing region and to address years of suburban sprawl and rising traffic congestion throughout the area, the City of Concord and the City of Kannapolis of Cabarrus County entered into an historic agreement in June 2003 to establish the first Fixed Route public transit service in Cabarrus County – Concord Kannapolis Area Transit (Rider). Part of the creation of Rider Transit was the establishment of a Designated Recipient for FTA funds on the Concord, NC Urbanized Area.

The City of Concord has been authorized as the designated recipient for Federal Transit Administration funding to the Concord UZA, a region which is contained within the Cabarrus Rowan Metropolitan Planning Organization (CRMPO) planning boundary. This includes funding under Chapter 49 U.S.C. Section 5310 which is the Enhanced Mobility of Seniors and Individuals with Disabilities program.

Together, Rider Transit, Cabarrus County Transit Services, Salisbury Transit and Rowan County Transit Service, and Charlotte Area Transit Service currently provides fixed-route transit service, paratransit services, vanpools and other public transportation programs throughout the region. In 2012, following publication of the 2010 census, the Cabarrus Rowan MPO was designated a Transportation Management Area (TMA) having exceeded the required 200,000 population threshold required for the designation. The TMA designation included an annual formula funding allocation for an Elderly and Disabled Transportation program under Moving Ahead for Progress in the 21st Century (MAP-21).

On July 6, 2012, President Obama signed into law *Moving Ahead for Progress in the 21st Century* (MAP-21) which went into effect on October 1, 2012. The legislation involved major changes to how the FTA and the states administer funding for elderly and disabled public transportation programs. Modifications included a repeal of the Section 5316 (JARC - Job Access and Reverse Commute) and Section 5317 (New Freedom) programs along with the establishment of an enhanced Section 5310 program that serves as a single formula program to support mobility of seniors and persons with disabilities. The New Freedom program elements were merged into the new enhanced Section 5310 program. On June 06, 2014 FTA issued C 9070.1G to offer guidance on the administration of the transit program for seniors and persons with disabilities under 49 U.S.C. §5310.

On March 5th, 2014, the state of North Carolina designated the City of Concord as “the designated recipient of the Persons with Disabilities Funding Program (Section 5310)”

([Appendix A](#)), consistent with the provisions of *Moving Ahead for Progress in the 21st Century* (MAP-21). The § 5310 designation requires development of this document, a Program Management Plan (PMP). The program (49 U.S.C. § 5310) provides formula funding to TMA’s for the purpose of assisting private nonprofit groups in meeting the transportation needs of the elderly and persons with disabilities when the transportation service provided is unavailable, insufficient, or inappropriate to meeting these needs. Funds are apportioned to TMA’s based on statutorily defined formulas. Section 5310 funding is distributed and managed by the Federal Transit Administration.

B. Goals and Objectives

The goal of the FTA Section 5310 program is to improve mobility for older adults and people with disabilities throughout the Concord Urbanized Area and to enhance coordination of federally assisted programs and services in order to encourage the most efficient use of federal resources and achieve the national goal of improved mobility of elderly persons and persons with disabilities. Under the 5310 program, the area transit is encouraged to coordinate transportation services with agencies that provide transportation services to the general public within the service area/network. As part of this process, the following objectives will be completed:

- Ensure the plan meets MAP-21 requirements and meets the intent of the Section 5310 funding program.
- Establish a framework by which proposed projects requesting Section 5310 funding can be solicited and selected through a fair and equitable process.
- Identify, contact and inform public agencies, community organizations and non-profit and eligible private for profit organizations providing service for seniors and persons with disabilities, as to the availability of 5310 program grant funds;
- Establish, promote and outline a process for soliciting and evaluating 5310 program funding proposals;
- Assure that proposals selected for funding are responsive to one or more of the needs identified in the locally adopted Coordinated Transportation Plan;
- Establish the requirements for the selected projects to enter into grant agreements; and,
- Summarize the requirements for managing and reporting the progress for implementing the funded projects.

The PMP is intended to facilitate FTA oversight by documenting the City’s policies and procedures for administering the Section 5310 program. This document includes the City’s objectives, policies, procedures, and administrative requirements, in a form that is readily

accessible to potential subrecipients, FTA, and the public. The PMP’s primary purposes are to serve as the basis for FTA management review of the program and to provide public information on the approved and compliant administrative processes to program administration. The City will utilize the PMP as a guide for local project applicants.

Federal financial assistance under the Section 5310 program is limited to participation in the cost of capital equipment (rolling stock), cost for purchase of transportation service contract(s), mobility management, and administrative costs to administer the program as further identified in this Program Management Plan (PMP). Funds can be used for the purchase of vehicles and related capital equipment.

The City of Concord will be responsible for filing grant applications under the §5310 program and to ensure that local applicants and project activities are eligible and compliant with Federal requirements. Private nonprofit transportation providers will be required to have an opportunity to participate as feasible, and the program will provide for coordination of federally assisted transportation services assisted by other Federal sources. Section 5310 funding will be allocated by the City of Concord in compliance with this Program Management Plan and the Local Coordinated Plan (LCP) which is more project specific than the PMP.

Special efforts shall be made in the planning and design of transportation facilities and services to assure elderly persons and persons with disabilities are afforded the availability of transportation which they can effectively utilize. Section 5310 funds shall provide for the special needs of elderly persons and persons with disabilities for which transportation services are unavailable, insufficient, or inappropriate.

This program management plan is a living document. It will be updated, as needed, to incorporate any expansions and enhancements of the 5310 program, as well as any revisions to the programs’ management, requirements, or guidelines.

C. Roles and Responsibilities

The designated recipient of Section 5310 fund in urbanized areas over 200,000 in population has the principal authority and responsibility for administering these programs. The designated recipient must be officially designated through a process consistent with 49 U.S.C. 5302(4): The City of Concord is the designated recipient of Section 5310 grant funds on behalf of the Cabarrus Rowan Metropolitan Planning Organization (CRMPO). On annual bases, the City of Concord will solicit, receive, and select proposals for funding in the Concord Urban Area from private and public transportation providers.

The designated recipient’s responsibilities:

- Notify eligible local entities of funding availability
- Develop selection criteria and evaluation process
- Determine applicant eligibility
- Select projects for funding

- Ensure that all subrecipients comply with Federal requirements
- Amend the Metropolitan Transportation Improvement Program (MTIP) and the State Transportation Improvement Program (STIP) to include selected projects

The eligible subrecipient’s responsibilities:

- Ensure that the proposed project meets the needs of the locally developed, coordinated public transit-human service transportation plan.
- Apply directly to the designated recipient for assistance under these programs through the competitive selection process
- Provide required documentation related to federal rules and details of local match funds

II. Coordinating and Related Plans

A. Coordination Human Service Transportation Plan

Section 5310 funding must be implemented effectively and efficiently. One way to provide quality service under these constraints is to coordinate agencies and projects. To exhibit coordination of services, potential applicants should identify any inter-agency and/or service coordination efforts or financial partnerships as part of the application and competitive selection process. The City of Concord will coordinate the planning and implementation of the grant program with a 5310 Grant Program Committee. Likewise, services related to this program will be coordinated with both public and private providers including taxicabs, retirement communities, Meal-on-Wheels, and other community transportation services; public providers such as Cabarrus Rowan MPO, Rider Transit, CCTS, Salisbury Transit, RTS and human service agencies.

B. Transportation Improvement Program (TIP)

Projects awarded the 5310 program funding must be reflected in the Cabarrus Rowan Metropolitan Planning Organization’s (CRMPO) Metropolitan Transportation Program (TIP). The TIP is a program of projects receiving federal transportation funding in the metropolitan area. The project may be included in the TIP under a generalized or more detailed project description.

C. 5310 Program Management Plan Development

Developing the 5310 Program Management Plan included outreach and coordination with diverse stakeholders. The coordination included meetings with stakeholders, grant application workshops, and email announcement seeking input on the draft Program Management Plan and advertising the Call for Projects.

III. Section 5310 Program Performance Measures

The City of Concord will be capturing overall program measures to report to FTA to be used with the Government Performance Results Act (GPRA) and the Performance Assessment Rating Tool process for the Office of Management and Budget (OMB). The following indicators are targeted to capture overarching program information as part of the annual report that the Authority submits to FTA. Until new measures are established, FTA intends to continue to use the following indicators. The Authority is required to submit both quantitative and qualitative information available on each of the following measures with its milestone progress reports.

A. Traditional Section 5310 Projects

- Gaps in Service Filled: Provision of transportation options that would not otherwise be available for seniors and individuals with disabilities, measured in numbers of seniors and individuals with disabilities afforded mobility they would not have without program support as a result of traditional Section 5310 projects implemented in the current reporting year.
- Ridership: Actual or estimated number of rides (as measured by one-way trips) provided annually for seniors or individuals with disabilities on Section 5310 supported vehicles and services as a result of traditional Section 5310 projects implemented in the current reporting year.

B. Other Section 5310 Projects

- Increases or enhancements related to geographic coverage, service quality, and/or service times that impact availability of transportation services for seniors and individuals with disabilities as a result of other Section 5310 projects implemented in the current reporting year.
- Additions or changes to physical infrastructure (e.g., transportation facilities, sidewalks, etc.), technology, and vehicles that impact availability of transportation services for seniors and individuals with disabilities as a result of other Section 5310 projects implemented in the current reporting year.

- Actual or estimated number of rides (as measured by one-way trips) provided for seniors and individuals with disabilities as a result of other Section 5310 projects implemented in the current reporting year.

The designated recipient should ensure that the above information is reported for all recipients and subrecipients of Section 5310 funding in projects selected by the designated recipient. Subrecipients will be required to report these performance measures on a quarterly basis and on an annual basis as required by The City of Concord and the FTA. The designated recipient may consolidate information for all projects in an annual report for any open Section 5310 grant awarded to the designated recipient.

IV. Annual Program of Projects Development and Approval Process

The City of Concord will adhere to the schedule below in developing a Program of Projects for the 5310 program.

Action	Tasks
Advertise 5310 Program Funding Availability	Notify public and private transportation providers, non-profit groups and other relevant stakeholders of funding availability
Call for Projects	The City of Concord will accept applications within a four (4) week application window.
Review Applications	The City of Concord will forward eligible applications to the Grant Review Committee. The review team will score applications according to the selection criteria noted in the Program Management Plan
Develop Program of Projects	The City of Concord will submit the Program of Projects to FTA

V. Eligible Subrecipients

Under the federal guidelines, eligible subrecipients under Section 5310 include:

- State and Local Government Agencies
- Public and Private Transportation Providers
- Social Service Agencies
- Non-profit Organizations

To be eligible for funding from the 5310 program, proposed projects must be located within the Concord, NC Urbanized Area. Only transportation-related programs that fall within the Concord UZA area qualify for funding.

A. Private Non-Profit Organization

A non-profit organization is a corporation or association determined by the Secretary of the Treasury to be an organization described by 26 U.S.C. 501 (c) which is exempt from taxation under 26 U.S.C. 501 (a) or one which has been determined under State law to be non-profit and for which the designated State agency or urbanized area designated recipient has received documentation certifying the status of the non-profit organization.

Applicants qualifying as a non-profit organization must provide current verification of the applicant’s incorporation number and current legal standing as a private non-profit from the state of North Carolina or show proof that they are a cooperation or association determined by the U.S. Treasury to be tax-exempt under 26 U.S.C. 501 (c).

B. Governmental Authority

A Governmental Authority subrecipient may be of two types:

- 1.) Is approved by the state to coordinate services for elderly individuals and individuals with disabilities; or
- 2.) Certifies that no non-profit corporations or associations are readily available in an area to provide the services.

C. Private Taxi Operators as Subrecipients

Private operators of public transportation are eligible subrecipients. The definition of “public transportation” includes “...shared-ride surface transportation services...” Private taxi companies that provide shared-ride taxi service to the general public on a regular basis are operators of public transportation, and therefore eligible subrecipients. “Shared-ride” means two or more passengers in the same vehicle who are otherwise not traveling together. Similar to general public and ADA demand response service, every trip does not have to be shared-ride operator, but the general nature of the service must include shared rides.

Local (municipal/state) statutes or regulations, or company policy, will generally determine whether a taxi company provides shared-ride or exclusive-ride service. Taxi companies that provide only exclusive-ride service are not eligible subrecipients; however, they may participate in the Section 5310 program as contractors. Exclusive-ride taxi companies may receive Section 5310 funds to purchase accessible taxis under contract with a state, designated recipient, or eligible subrecipient such as a local government or non-profit organization. The taxi company may hold title to the accessible vehicle(s) as long as the agreement between the state, designated recipient, or subrecipient and the taxi company is sufficient to establish satisfactory continuing control. Acceptable means of establishing satisfactory continuing control could include a state, designated recipient, or subrecipient’s lien on the vehicle, or contract provisions that require the accessible taxi to be used to provide transportation for seniors and people with disabilities, and that the vehicle may not be removed from service or disposed of prior to the end of its useful life without the express written consent of the FTA recipient or subrecipient.

VI. Subrecipient Monitoring and Oversight

The purpose of this section is to assist The City of Concord and its subrecipients in maintaining compliance for federally funded projects, and understanding the requirements and responsibilities of being a Direct Recipient, Subrecipient, Third Party Contractor, or Lessee receiving funds through federally funded projects.

Any grantee under FTA programs is required to comply with all applicable Federal civil rights statutes and with the implementing regulations for the statutes. FTA implements the Civil Rights Act of 1964 by prohibiting discrimination under projects, programs, or activities receiving financial assistance because of race, color, creed, national origin, sex, or age. The laws include: Title VI of the Civil Rights Act of 1964, Equal Employment Opportunity, Disadvantaged Business Enterprise and Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA).

The requirements for Civil Rights compliance are extended to subrecipients. Subrecipient’s assurances under the Title VI and the other civil rights requirements are included in the application for assistance, in the required Annual Certifications and Assurances and in the contract with The City of Concord. Subrecipient grantees are also required to identify any lawsuits or complaints alleging discrimination in services filed with the grantee. Civil rights monitoring will concentrate on how the grantee is providing service. Title VI also assures that funds are passed through to subrecipients and their project without regard to race, color, or national origin.

A. Definitions

1. Direct Recipient

The term Direct Recipient refers to a public entity legally eligible under federal transit law to apply for and receive grants directly from the Federal Transit Administration (FTA).

2. Subrecipient

The term Subrecipient refers to an entity that receives federal assistance awarded through an FTA Direct Recipient rather than by FTA directly. The term also includes “subgrantee,” but does not include “third party contractor.”

3. Third Party Contractor/Lessee

The term Third Party Contractor/Lessee refers to any entity that is awarded a contract, purchase order, or lease agreement from the Direct Recipient or Subrecipient financed in whole or in part with federal assistance awarded by FTA.

B. Application and Award Process

Both the direct recipient and all subrecipients are required to follow all federal requirements when using funds from federal grants. When subrecipients are involved, the FTA requires the direct recipient monitor the project to ensure the use of federal funding by the subrecipient adheres to all federal rules and regulations.

C. Budget Authorization

Prior to any applications for a request to receive and use federal funds, the project needs to demonstrate that it meets all local, state and FTA requirements and this it is eligible to receive federal funds. At this time, all matching funds must be identified and approved. Local match funding requirements and percentages can vary. Any match-funding source outside the standards established by FTA must receive written approval from FTA to be used. Match funding should adhere to the following:

- Must be from an eligible funding source under FTA guidelines;
- Must be available at the time of the grant award;
- Match funding must be spent to qualify as a match;
- No federal funds may be drawn without authorization and availability of a sufficient match funding source;
- Subrecipients must certify the use of local match with the submission of each invoice;
- Subrecipients are required to provide quarterly reports that account for the use of local funds as match.

D. Grant Application Process

During the application process subrecipients shall submit the following:

1. Complete forms for project description/detail and budget and timeline/milestones.
2. FTA Certifications and Assurances, which should be completed annually for each new federal fiscal year, beginning October 1.
3. Proof of acceptable A-133 audit if more than \$500,000 of federal funds are received on an annual basis (includes all federal sources).

4. Construction projects/environmental requirements (e.g., Categorical Exclusions, State Historic Preservation Office, etc.).
5. List of any revenue vehicles and/or changes to existing fleet plan.

E. Grant Award

1. Once a federal grant is awarded, the direct recipient shall identify a project manager responsible for grant administration and oversight. Subrecipients also shall establish a project manager responsible for grant administration and oversight. The project manager for the City of Concord shall work closely with the subrecipient project manager to monitor all grant activity. The project manager will serve as the main point of contact with the FTA.
2. Upon execution of the federal grant, a Subrecipient Grant Agreement (SGA) shall be created and signed by all applicable parties. The subrecipient shall complete the FTA's Annual Certifications and Assurances, provide a copy of an acceptable A-133 audit (if it has received over \$500,000 of federal funding from all sources) or audited financial statements (if the \$500,000 threshold has not been met), and provide copies of other documents as the City of Concord and/or FTA requires. The SGA shall specify all applicable federal requirements including, but not limited to:
 - a. Procurement;
 - b. Disadvantaged Business Enterprise (DBE);
 - c. Program-specific concerns;
 - d. Prior approvals;
 - e. Reporting requirements;
 - f. Invoicing;
 - g. Allowable activities per the work scope;
 - h. Allowable costs for the work scope per the approved budget.
3. The subrecipient is responsible for adhering to the work scope and budget as approved by FTA and as outlined in the SGA. Prior approvals are required for some activities even if they are included in the work scope and budget. In order to receive full reimbursement of eligible expenses, Subrecipient Project Managers should read thoroughly the SGA and any appendices to make sure all federal regulations are being adhered to.
4. All changes to the work scope require prior written approval from the City of Concord Project Manager. Requests for reimbursement may begin as soon as the SGA is executed. Invoices must be for the net expenses (i.e., total expense less

match) actually incurred in direct support of the project. No advances or expenditures prior to the execution of the SGA are allowed.

5. The Subrecipient must certify the use of local match with each invoice submitted. A financial report that includes a completely documented accounting of the use of local funds as match is required each quarter based on the federal fiscal year.

F. Subrecipient Monitoring

1. Quarterly monitoring of subrecipients shall be conducted to ensure that all federal guidelines are being adhered to when using federal funds. A project progress report is required along with a detailed accounting of the expenditure of the local match.
2. In addition to State or Federal program specific monitoring requirements, all monitoring activities should address the following areas:
 - a. All applicable requirements of Title VI of the *Civil Rights Act of 1964*, as defined in the current Title VI Compliance Commission Advisory Memorandum.
 - b. The applicable core monitoring areas, as defined by OMB Circular No. A-133 Compliance Supplement. Currently, the core monitoring areas include but are not limited to:
 - i. Activities allowed or not allowed;
 - ii. Allowable costs/cost principles;
 - iii. Cash management;
 - iv. Davis-Bacon Act; eligibility
 - v. Equipment and real property management;
 - vi. Period of availability of funds;
 - vii. Procurement, suspension and debarment;
 - viii. Program Income;
 - ix. Buy America Requirements;
 - x. Equal Employment Opportunity (EEO);
 - xi. Disclosure form to Report Lobbying;
 - xii. Real property acquisition and relocation assistance;
 - xiii. Reporting and special tests and provisions.
3. At least annually, the City of Concord will collect updated information and documentation on subrecipients' financial processes and controls, through either

the A-133 or an annual financial statement when the subrecipient is excluded from the A-133 audit requirements. In addition, the City of Concord may perform desk audits of a sample of sub-invoices, site visits to review processes, systems and controls, or other procedures as deemed appropriate.

- a. If it has been determined that there has been an unfavorable audit report from a subrecipient, the appropriate City of Concord Project Manager will complete the Audit Findings Review Checklist (Appendix D) to confirm that the subrecipient has provided sufficient documentation, a request will be made to the subrecipient to provide additional documentation.
- b. Examples of Corrective Action that can be taken as a result of unfavorable audit reports include but may not be limited to the following:
 - i. Corrective Action Plan;
 - ii. Discuss need for special monitoring with Program personnel;
 - iii. Ask for extra contact between Program leads;
 - iv. Ask for more frequent technical reporting;
 - v. Add more detailed or frequent invoicing requirements;
 - vi. Add requirement for expenditure backup materials;
 - vii. Tie receipt of technical progress reports or other deliverables to payments;
 - viii. Require on-site monitoring (technical and financial);
 - ix. Add more stringent termination or stop-work language for failure to comply with requirements.

G. Transfer of Funds

1. Transfer to Other FTA Programs. Transfers of Section 5310 funds to other programs are not permitted.
2. Transfer to Other Areas within the Program. The State may use funds apportioned for small urbanized and rural areas for projects serving another area of the State if the Governor of the State certifies that all of the objectives of the Section 5310 program are being met in the specified areas.

VII. Eligible Projects

Section 5310 funds are available for capital and operating expenses to support the provision of transportation services to meet the specific needs of seniors and individuals with disabilities. All projects must either be situated in the Concord Urbanized Area or may also originate in a rural area but have a final destination located in the urbanized area to qualify for Section 5310 Urbanized Area funds.

This means that at least 55 percent of any rural, small urbanized area, or large urbanized area’s annual apportionment must be utilized for public transportation capital projects that are planned, designed, and carried out to meet the specific needs of seniors and individuals with disabilities. It is not sufficient that seniors and individuals with disabilities are merely included (or assumed to be included) among the people who will benefit from the project.

Eligible projects for the required 55 percent of capital projects include the capital cost of contracting for the provision of transit services for seniors and individuals with disabilities and other specialized shared-ride transportation services. The purchase of rolling stock for or the acquisition of ADA complementary para transit service are eligible capital expenses that may also qualify as public transportation capital projects planned, designed, and carried out to meet the specific needs of seniors and individuals with disabilities when public transportation is insufficient, unavailable, or inappropriate, provided the projects are carried out by eligible subrecipients (see section V, above) and these projects are included in the area’s coordinated plan.

In addition to the above required capital projects, up to 45 percent of an area’s apportionment may be utilized for additional public transportation projects that:

- a. Exceed the ADA minimum requirements,
- b. Improve access to fixed-route service and decrease reliance on individuals with disabilities on ADA complementary paratransit service , or
- c. Provide alternatives to public transportation that assist seniors and individuals with disabilities with transportation.

Such projects must be targeted toward meeting the transportation needs of seniors and individuals with disabilities, although they may be used by the general public. It is not sufficient that seniors and individuals with disabilities are included (or assumed to be included) among the people who will benefit from the project. FTA encourages projects that are open to the public as a means of avoiding unnecessary segregation of services.

Recipients must clearly identify the projects that are part of the required 55 percent capital projects as part of the grant activity line item narrative descriptions. Many projects may be eligible under both the required and optional criteria, but a discrete set of projects that meet

the required criteria constituting at least 55 percent of the grant amount, exclusive of administrative expenses, must be identified. Alternatively, the grant application may assign less than the required 55 percent to such projects if other grants in the same fiscal year utilize more than the required 55 percent, so long as at least 55 percent of the total annual apportionment will be used for required projects. In such cases, a list of the other grants and the funding amounts must be included within the new grant application.

A. Traditional Capital Expenses

Funds for the Section 5310 program are available for capital expenses as defined in Section 5302(3) to support public transportation capital projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, unavailable, or inappropriate. Examples of capital expenses that meet the 55 percent requirement, which must be carried out by an eligible recipient or subrecipient as described in section V of this chapter, above, include but are not limited to:

1. Rolling stock and related activities for Section 5310 – funded vehicles
 - a. Acquisition of expansion or replacement buses or vans, and related procurement, testing, inspection, and acceptance costs;
 - b. Vehicle rehabilitation; or overhaul;
 - c. Preventive maintenance;
 - d. Radios and communication equipment; and;
 - e. Vehicle wheelchair lifts, ramps, and securement devices.
2. Passenger facilities related to Section 5310 – funded vehicles
 - a. Purchase and installation of benches, shelters and other passenger amenities.
3. Support facilities and equipment for Section 5310 – funded vehicles
 - a. Extended warranties that do not exceed industry standard;
 - b. Computer hardware and software
 - c. Transit-related intelligent transportation systems (ITS)
 - d. Dispatch systems; and
 - e. Fare collection systems.
4. Lease of equipment when lease is more cost effective than purchase. Note that when lease of equipment or facilities is treated as a capital expense, the recipient must establish criteria for determining cost effectiveness in accordance with FTA

- regulation, “Capital Leases,” 49 CFR Part 639 and OMB Circular A-94, which provides the necessary discount factors and formulas for applying the same;
5. Acquisition of transportation services under a contract, lease, or other arrangement. This may include acquisition of ADA-Complementary paratransit services when provided by an eligible recipient or subrecipient as defined in section 5 of this chapter above. Both capital and operating costs associated with contracted service are eligible capital expenses. User-side subsidies are considered one form of eligible arrangement. Funds may be requested for contracted services covering a time period of more than one year. The capital eligibility of acquisition of services as authorized in 49 U.S.C. 5310(b)(4) is limited to the Section 5310 program;
 6. Support for mobility management and coordination programs among public transportation providers and other human service agencies providing transportation. Mobility management is an eligible capital cost. Mobility management techniques may enhance transportation access for populations beyond those served by one agency or organization within a community. For example, a nonprofit agency could receive Section 5310 funding to support the administrative costs of sharing services it provides to its own clientele with other seniors and/or individuals with disabilities and coordinate usage of vehicles with other nonprofits, but not operating costs of service. Mobility management is intended to build coordination amount existing public transportation providers and other transportation service providers with the result of expanding the availability of service. Mobility management activities may include:
 - a. The promotion, enhancement, and facilitation of access to transportation services, including the integration and coordination of services for individuals with disabilities, seniors, and low-income individuals;
 - b. Support for short-term management activities to plan and implement coordinated services;
 - c. The support of state and local coordination policy bodies and councils;
 - d. The operation of transportation brokerages to coordinate providers, funding agencies, and passengers;
 - e. The provision of coordination services, including employer-oriented transportation management organizations’ and human service organizations’ customer-oriented travel navigator systems and neighborhood travel coordination activities such as coordinating individualized travel training and trip planning activities for customers;
 - f. The development and operation of one-stop transportation traveler call centers to coordinate transportation information on all travel modes and to

manage eligibility requirements and arrangements for customers among supporting programs; and

- g. Operational planning for the acquisition of intelligent transportation technologies to help plan and operate coordinated systems inclusive of geographic information systems (GIS) mapping, global positioning system technology, coordinated vehicle scheduling, dispatching and monitoring technologies, as well as technologies to track costs and billing in a coordinating system, and single smart customer payment systems. (Acquisition of technology is also eligible as a standalone capital expense).

- 7. Capital activities (e.g., acquisition of rolling stock and related activities, acquisition of services, etc.) to support ADA-complementary paratransit service may qualify toward the 55 percent requirement, so long as the service is provided by an eligible recipient/subrecipient as defined in section V., above, and is included in the coordinated plan.

Section 5310 (b) provides that of the amounts apportioned to states and designated recipients, not less than 55 percent shall be available for traditional Section 530 projects—those public transportation capital projects planned, designed, and carried out to meet the specific needs of seniors and individuals with disabilities when public transportation is insufficient, unavailable, or inappropriate. Notably, this 55 percent is a floor, not a ceiling—recipients may use more than 55 percent of their apportionment for the types of projects listed above. For example, mobility management and ITS projects may be eligible under both categories; the difference to note, in order for the project to qualify toward the 55 percent requirement, is that the project must meet the definition of a capital project, be specifically geared toward the target population, and carried out by an eligible subrecipient, which is limited for this category of projects. The list of eligible activities is intended to be illustrative, not exhaustive. FTA encourages recipients to develop innovative solutions to meet the needs of seniors and individuals with disabilities in their communities and discuss proposed projects with FTA regional staff to confirm eligibility.

B. Other Eligible Capital and Operating Expenses

Up to 45 percent of 5310 funds may be used for operating expenses that provide transportation services that exceed the requirements of the ADA or improve access to fixed route services and decrease reliance by individuals with disabilities on ADA complementary transit service.

- 1. Public transportation projects (capital only) planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable;

2. Public transportation projects (capital and operating) that exceed the requirements of ADA;
3. Public transportation projects (capital and operating) that improve access to fixed route service and decrease reliance by individuals with disabilities on ADA complementary paratransit service; or;
4. Alternatives to public transportation (capital and operating) that assist seniors and individuals with disabilities with transportation.

C. Projects that Exceed the Requirements of ADA

The following activities are examples of eligible projects meeting the definition of public transportation service that is beyond the ADA requirements.

1. Enhancing paratransit beyond minimum requirements of the ADA. ADA complementary paratransit services can be eligible under the Section 5310 program in several ways:
 - a. Expansion of paratransit service parameters beyond the three-fourths mile required by the ADA;
 - b. Expansion of current hours of operation for ADA paratransit services that are beyond those provided on the fixed-route services;
 - c. The incremental cost (if any) of making door-to-door service available to all eligible ADA paratransit riders, but not on a case-by-case basis for individual riders in an otherwise curb-to-curb system;
 - d. Enhancement of the level of service by providing escorts or assisting riders through the door of their destination;
 - e. Acquisition of vehicles and equipment designed to accommodate mobility aids that exceed the dimensions and weight ratings established for wheelchairs under the ADA regulations, 49 CFR Part 38 (i.e., larger than 30" x 48" and/or weighing more than 600 pounds), and labor costs of aides to help drivers assist passengers with oversized wheelchairs. This would permit the acquisition of lifts with a larger capacity, as well as modifications to lifts with a 600-pound design load, and the acquisition of heavier duty vehicles for paratransit and/or demand-response service in order to accommodate lifts with a heavier design load; and
 - f. Installation of additional securement locations in public buses beyond what is required by the ADA.

2. Feeder Services. Accessible “feeder” service (transit service that provides access) to commuter rail, commuter bus, intercity rail, and intercity bus stations, for which complementary paratransit service is not required under the ADA.

D. Public Transportation Projects that Improve Accessibility

The following activities are examples of eligible projects that improve accessibility to the fixed-route system.

1. Making accessibility improvements to transit and intermodal stations not designated as key stations. Improvements for accessibility at existing transportation facilities that are not designated as key stations established under 49 CFR 37.47, 37.51 or 37.53, and that are not required under 49 CFR 37.43 as part of an alteration or renovation to an existing station, so long as the projects are clearly intended to remove barriers that would otherwise have remained. Section 5310 funds are eligible to be used for accessibility enhancements that remove barriers to individuals with disabilities so they may access greater portions of public transportation systems, such as fixed-route bus service, commuter rail, light rail, and rapid rail. This may not include:
 - a. Building an accessible path to a bus stop that is currently inaccessible, including curb cuts, sidewalks, accessible pedestrian signals, or other accessible features;
 - b. Adding an elevator or ramps, detectable warnings, or other accessibility improvements to a non-key station that are not otherwise required under the ADA;
 - c. Improving signage or wayfinding technology ; or
 - d. Implementation of other technology improvements that enhance accessibility for people with disabilities including ITS.
 - e. Travel training. Training programs for individual users on awareness, knowledge, and skills of public and alternative transportation options available in their communities. This includes travel instruction and travel training services.

E. Public Transportation Projects that Assist Seniors and Individuals with Disabilities with Transportation

The following activities are examples of projects that are eligible public transportation alternatives:

1. Purchasing vehicles to support accessible taxi, ride-sharing, and/or vanpooling programs. Section 5310 funds can be used to purchase and operate accessible vehicles for use in taxi, ride-sharing, and/or vanpool programs provided that the vehicle meets the same requirements for lifts, ramps, and securement systems specified in 49 CFR part 38, subpart B, at a minimum, and permits a passenger whose wheelchair can be accommodated pursuant to part 38 to remain in his/her personal mobility device inside the vehicle.
2. Supporting the administration and expenses related to voucher programs for transportation services offered by human service providers. This activity is intended to support and supplement existing transportation services by expanding the number of providers available or the number of passengers receiving transportation services. Vouchers can be used as an administrative mechanism for payment of alternative transportation services to supplement available public transportation. The Section 5310 program can provide vouchers to seniors and individuals with disabilities to purchase rides, including: (a) mileage reimbursement as part of a volunteer driver program; (b) a taxi trip, or (c) trips provided by a human service agency. Providers of transportation can then submit the voucher for reimbursement to the recipient for payment based on predetermined rates or contractual arrangements. Transit passes or vouchers for use on existing fixed-route or ADA complementary paratransit service are not eligible. Vouchers are an operational expense which requires a 50/50 (federal/local) match.
3. Supporting volunteer driver and aide programs. Volunteer driver programs are eligible and include support for costs associated with the administration, management of driver recruitment, safety, background checks, scheduling, coordination with passengers, other related support functions, mileage reimbursement, and insurance associated with volunteer driver programs are also eligible. FTA encourages communities to offer consideration for utilizing all available funding resources as an integrated part of the design and delivery of any volunteer driver/aide program.

F. Administration, Planning and Technical Assistance

Up to 10 percent of the recipient's total fiscal year apportionment may be used to fund program administration costs including administration, planning, and technical assistance

for projects funded under this program. Recipients may pass any portion of funds available for administrative expenses, up to the allowable 10 percent, on to subrecipients for the same purpose. Program administration costs may be funded at 100 percent federal share.

The state and the designated recipient in urbanized areas have pre-award authority to incur administrative costs for Section 5310. Because the program is continuously managed, oldest funds available are drawn first regardless of the year of award for program activity. FTA encourages recipients to identify all the available Section 5310 administrative funds they intend to use routinely in each annual grant application. However, recipients may choose to accumulate Section 5310 administrative funds within their period of availability to augment the funds available for a special administrative need in a subsequent year. Recipients may accumulate Section 5310 administrative funds in the year of apportionment plus two years.

If a recipient includes a program administration expenses in excess of the 10 percent in its grant application, it must document the unused Section 5310 administrative funds from prior years available to augment the amount of Section 5310 administrative funds in the current apportionment. The recipient must document the availability of Section 5310 administrative funds in each grant application. The grant application should include a list of all other grants for administrative expenses that utilize funds from the same apportionment. This list must include the total amount of administrative funds included in each grant and the fiscal year in which the funds were apportioned. The list should account for all funds for administrative expenses added through grant budget revisions or amendments. The list should include all other pending grant applications, budget revisions, or amendments that include administrative expenses that utilize funds from the same apportionment.

Allowable administrative costs may include, but are not limited to, general administrative and overhead costs, staff salaries, office supplies, and development of specifications for vehicles and equipment. Guidance on eligible costs is in Office of Management and Budget (OMB) Circular A-87 (codified at 2 CFR Part 225). The program administration budget line item may also include technical assistance and planning activities, including allocations to subrecipients to support the local coordinated planning process. Any general overhead costs must be supported by an indirect cost allocation plan that has been approved by FTA or another cognizant federal agency.

These eligible program administrative costs may be used directly by the designated recipient or may be passed through by the designated recipient to subrecipients for administration, planning, or technical assistance purposes. The funds can be obligated before the completion of the coordinated planning process and project selection process in order to assist with either activity.

VIII. Local Share and Funding Requirements

A. Federal Share of Costs/Local Match

Section 5310 funds may be used to finance capital and operating expenses. The federal share of eligible capital costs shall be in an amount equal to 80 percent of the net cost of the activity. The federal share of the eligible operating costs may not exceed 50 percent of the net operating costs of the activity. Recipients may use up to 10 percent of their apportionment to support program administrative costs including administration, planning, and technical assistance, which may be funded at 100 percent federal share.

The local share of eligible capital costs shall be not less than 20 percent of the net cost of the activity, and the local share for eligible operating costs shall be not less than 50 percent of the net operating costs. The local share may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a state or local service agency or private social services organization, or new capital. Some examples of these sources of local match include:

State or local appropriations; dedicated tax revenues; private donations; revenue from service contracts; transportation development credits, and net income generated from advertising and concessions. Non-cash share such as donations, volunteered services, or in-kind contributions is eligible to be counted toward the local match as long as the value of each is documented and supported, represents a cost which would otherwise be eligible under the program, and is included in the net project costs in the project budget.

Income from contracts to provide human service transportation may be used either to reduce the net project cost (treated as revenue) or to provide local match for Section 5310 operating assistance. In either case, the cost of providing the contract service is included in the total project cost. No FTA program funds can be used as a source of local match for other FTA programs, even when used to contract for service. All sources of local match must be identified and described in the grant applications at the time of grant award.

In addition, the local share may be derived from federal programs that are eligible to be expended for transportation, other than DOT programs, or from DOT's Federal Lands Highway program. Examples of types of programs that are potential sources of local match include employment, training, aging, medical, community services, and rehabilitation

services. Specific program information for other types of Federal funding is available at www.unitedweride.gov.

B. Exceptions to Local Match Requirements

The federal share may exceed 80 percent for certain projects related to ADA and Clean Air Act (CAA) compliance as follows:

- (1.) Vehicles. The federal share is 85 percent for the acquisition of vehicles for purposes of complying with or maintaining compliance with ADA (42 U.S.C. 12101 et seq.) or the CAA. A revenue vehicle that complies with 49 CFR Part 38 may be funded at 85 percent federal share.
- (2.) Vehicle-Related Equipment and Facilities. The federal share for project costs for acquiring vehicle-related equipment or facilities (including clean-fuel or alternative-fuel vehicle-related equipment or facilities) for purposes of complying or maintaining compliance with the CAA, 42 U.S.C. 7401 et seq), or required by the ADA, is 90 percent. FTA considers vehicle-related equipment to be equipment on and attached to the vehicle.

IX. Selection Criteria

FTA allows but does not require the use of selection criteria for awarding 5310 funding. Selection criteria were developed to guide application review and project selection. The following criteria were developed and are consistent with the Local Coordinated Plan and FTA’s 5310 guidance and review of peer agency Program Management Plans.

A. Statement of Needs (20 Points)

Project applications should clearly state the need for the project and demonstrate how the project is consistent with the objectives of the grant program. The project application should indicate how the project will enhance transportation for the urbanized area’s elderly and disabled populations, as well as, the connection between the project and the Coordinated Plan should be clearly described in the application.

B. Project Planning and Implementation (20 Points)

For all projects, applicants must provide a well-defined service operations plan and/or capital procurement plan, and describe the implementation steps and timelines for carrying out the plan. The applicant’s plan should include coordination, eligibility determination, marketing and service delivery details.

C. Project Budget and Grants Management (15 Points)

Applicants must submit a complete project budget, indicating anticipated project expenditures and revenues, including documentation of matching funds. The application should address long-term efforts and identify potential funding sources for sustaining the service beyond the grant period.

D. Program Effectiveness and Evaluation (20 Points)

The project will be scored based on the applicant’s identification of clear, measurable outcome based performance measures, including customer satisfaction, to track the

effectiveness of the service. The applicant should monitor and evaluate the service throughout the period of performance.

**E. Organizational Preparedness and Technical Capacity
(25 Points)**

Projects should be a good fit in the applicant’s organization. The applicant must demonstrate that it has staff with the technical experience to manage or operate a transportation service, such as correct levels of insurance for operations. In addition, the applicant must show that they are prepared to monitor and provide safe services.

Project Evaluation Criteria	Possible Points (100 Maximum)
1. Project Needs	20
Is the project consistent with the 5310 grant program’s objectives?	0 or 5
To what degree will the project increase or enhance the availability of transportation for the Concord Urbanized Area’s elderly & disabled populations?	0 – 5
Does the project address a need identified in the Coordinated Plan?	0 or 5
Does the Project address a service that otherwise would not be available	0 or 5
2. Project Planning and Implementation	20
Does the project include coordination and/or partnerships with transportation providers or other relevant stakeholders?	0 or 5
Is the project timeline realistic?	0 or 5
To what extent does the applicant include plans to market to the target group and promote public awareness of their project?	0 – 5
Is there evidence the applicant has done all necessary planning and is ready to begin the project upon being funded?	0 – 5
3. Project Budget	15
Were all the necessary budgets completed and submitted?	0 or 5
Are the certified local match sources for the project also listed in the budget as matching funds?	0 or 5
How does the agency propose to continue commitment to the life of the project beyond the availability of the requested grant resources?	0 – 5
4. Program Effectiveness and Evaluation	20
Did the applicant mention collecting data and/or documenting the delivery and utilization of services?	0 or 10
Does the applicant propose monitoring measurable indicators of success?	0 or 10
5. Organizational Preparedness	25
How closely does the proposed project align with the organization’s mission and objectives?	0 – 5
How experienced is the applicant staff in managing transportation projects and/or operating passenger transportation?	0 – 5
How experienced is the agency with financial responsibilities such as, quarterly reporting, annual audits, and/or forms of financial reporting?	0 – 10
Does the applicant propose training, vehicle maintenance, inspection, or monitoring to manage risk and to provide safe services?	0 – 5
Total Score	0 - 100

X. Other Provisions

A. Private Sector Participation

Federal law requires the public to be involved in the transportation planning process, and specifically requires that private providers be provided an opportunity to be consulted in developing transportation plans and programs in both urbanized and rural areas. Public involvement processes must be proactive and provide complete information, timely public notice, full public access to key decisions, and opportunities for early and continuing involvement throughout the transportation planning and programming process.

Therefore, each applicant for funds from City of Concord’s Section 5310 program must describe their plans to comply with this policy and provide documentation of these planned efforts in their application.

B. Civil Rights

Recipients of Section 5310 program funds are required to meet civil rights requirements under Title VI, as well as Equal Employment Opportunity (EEO) and Disadvantaged Business Enterprise (DBE) regulations.

C. Title VI

The recipient agrees to comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the project, with all of the following requirements under Title VI of the Civil Rights Act of 1964:

- 1.) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- 2.) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act,” 49 CFR Part 21.
- 3.) FTA Circular 4702.1B “Title VI Requirements and Guidelines for Federal Transit Administration Recipients.” This document provides FTA recipients and subrecipients with guidance and instructions necessary to carry out DOT Title VI

regulations (49 CFR Part 21), and DOT Policy Guidance Concerning Recipient’s Responsibilities to Limited English Proficient (LEP) Persons.

- 4.) U.S. DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons (70 FR 74087, December 14, 2005). This guidance clarifies the responsibilities of recipients of federal financial assistance from DOT and assists them in fulfilling their responsibilities to LEP persons, pursuant to Title VI of Civil Rights Act of 1964 and Executive Order 13166.
- 5.) FTA Circular 4703.1 “Environmental Justice Policy Guidance for Federal Transit Administration Recipients.” This document provides FTA recipients and subrecipients with guidance and instructions necessary to carry out U.S. DOT Order 5610.2 to Address Environmental Justice in Minority Populations and Low-Income Populations, and Executive Order 12898 on Environmental Justice that describes the process that the Office of the Secretary of Transportation and each operating administration will use to incorporate environmental justice principles into existing programs, policies, and activities.
- 6.) U.S. DOT Order to Address Environmental Justice in Minority Populations and Low-Income Populations. DOT Order 5610.2 describes the process that the Office of the Secretary of Transportation and each operating administration will use to incorporate environmental justice principles (as embodied in Executive Order 12898 on Environmental Justice) into existing programs, policies, and activities.

Contractors and subcontractors are not required to submit a Title VI report. However, they are responsible for complying with the Title VI Program of the recipient with whom they are contracting. Recipients and subrecipients are responsible for ensuring that their contractors are complying with their Title VI Program and Title VI regulations.

D. Disadvantaged Business Enterprise (DBE)

To the extent required by federal law, regulation, or directive, the recipient agrees to take the following measures to facilitate participation by DBE’s:

- 1.) The recipient agrees and assures that it will comply with MAP-21 Section 1101 (b) (23 U.S.C. 101 note), which directs the Secretary of Transportation to expend not less than 10 percent of authorized federal funds with DBEs. This 10 percent national goal is aspirational and is used by DOT to help monitor and evaluate DBE participation in DOT assisted contracting opportunities.

- 2.) The recipient agrees and assures that it will comply with DOT regulation, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 CFR Part 26. Among other provisions, this regulation requires certain recipients of DOT federal financial assistance, namely state and local transportation agencies, to establish goals for the participation of disadvantaged entrepreneurs and certify the eligibility of DBE firms to participate in their DOT assisted contracts.

- 3.) The recipient agrees and assures that it shall not discriminate on the base of race, color, sex, or national origin, in the award and performance of any third party contract, or subrecipient supported with federal assistance derived from DOT, or in the administration of its DBE program, and will comply with the requirements of 49 CFR Part 26. The recipient agrees to take all necessary and reasonable steps set forth in 49 CFR Part 26 to ensure nondiscrimination in the award and administration of all third party contracts and subagreements supported with federal assistance derived from DOT. As required by 49 CFR Part 26 and approved by DOT, the recipient’s DBE program is incorporated by reference and made part of the grant agreement or cooperative agreement. The recipient agrees that implementation of the DBE program is a legal obligation, and that failure to carry out its terms shall be treated as a violation of the grant agreement or cooperative agreement. Upon notification by DOT to the recipient of a failure to implement its approved DBE program, DOT may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001, and/or the Program Fraud Civil Remedies Act, (31 U.S.C. 3801 et seq).

For further guidance, refer to the federal laws, regulations, and executive orders cited in this chapter. FTA’s regional civil rights officers or headquarters civil rights staff will also provide current guidance upon request.

E. Equal Employment Opportunity (EEO)

The City of Concord and Section 5310 Program subrecipients must ensure that no person in the United States shall on the grounds of race, color, religion, national origin, sex, age, or disability be excluded from participating in, or denied the benefits of, or be subject to, discrimination in employment under any project, program, or activity receiving federal financial assistance under the federal transit laws.

Each Section 5310 Program contract between the City of Concord and a subrecipient for the provision of FTA funding shall contain language that requires the subrecipient to comply

with FTA regulations related to EEO. In addition, private providers under contract with subrecipients are required to comply with these regulations.

F. Discrimination

Over time, the Federal government has enacted several pieces of legislation that prohibit discrimination against people. Section 504 (<http://www.fhwa.dot.gov/civilrights/programs/ada.cfm>) is a civil rights law that prohibits discrimination against individuals with disabilities. The Americans with Disabilities Act of July 1990, has five subsections to provide accommodations to protect the rights of individuals with disabilities.

Subrecipients will be required to provide assurances to the City of Concord that certifies compliance with Section 504 and ADA regulations. The City of Concord will also have the right of subrecipient review for compliance with all Federal requirements associated with the Section 5310 Grant.

G. Assurances

The City of Concord annually signs the FTA Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements, which binds The City of Concord to all civil rights requirements.

Through annual grant agreements, subrecipients agree to comply with all applicable civil rights statutes and regulations. These include Title VI of the Civil Rights Act, Equal Employment Opportunity, and Americans with Disabilities Act. As subrecipients to the City of Concord, Section 5310 Program subrecipients must comply with the FTA’s Annual List of Certifications and Certifications and Assurances as stated in their grant agreements with Capital Area Transit.

H. Buy America

Title 49 U.S.C. 5323(j) provides that with limited exceptions, FTA may not obligate funds for a public transportation project unless the steel, iron, and manufactured goods used in the project are produced in the United States. Section 5310 recipients and subrecipients must comply with regulations, 49 CFR part 661. FTA’s Buy America requirements at 49 CFR Part 661 differ from Federal Buy American regulations at 48 CFR Part 25. The former applies to all purchases, including materials or supplies funded as operating costs when funded by FTA, if the purchase exceeds the threshold for small purchases (currently \$100,00), whereas the latter applies to direct federal procurements. FTA strongly advises recipients to review

49 CFR Part 661 as well as the current FTA Circular 4220.1, “Third Party Contracting Guidance,” before undertaking any procurement. In addition, 49 U.S.C. 5323(j)(9) allows a party adversely affected by an FTA action the right to seek review. FTA has created a Buy America website to provide an overview of these requirements as well as policies, procedures, and letters of interpretation: <http://www.fta.dot.gov/buyamerica>.

I. Lobbying

Recipients of Federal grants and contracts exceeding \$100,000 must certify that they have not and will not use Federal appropriated funds to pay for influencing or attempting to influence an officer or employee of any Federal department or agency, a member of Congress, or an officer or employee of Congress in connection with obtaining any Federal grant, cooperative agreement or any other Federal award. The City of Concord requires each subrecipient receiving more than \$100,000 to complete FTA’s Certification on Lobbying prior to contract execution. All bids for equipment prepared by these subrecipients are required to contain this certification as well.

J. Prohibition of Exclusive School Transportation

Subrecipients may not engage in school bus operation using buses, facilities or equipment purchased with Federal funding in competition with private school bus operators except as provided for in 49 CFR Part 605, School Bus Operations.

K. Drug and Alcohol Testing

Subrecipients that receive §5310 funding must comply with the Federal Motor Carrier Safety Administration (FMCSA) rules for employees who hold Commercial Driver's Licenses. The City of Concord provides technical assistance to subrecipients in the form of training, networking, policy development, and distribution of FTA's publication *Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit*. To monitor a grantee's compliance, the City of Concord developed a checklist that is used during desk reviews or site visits identifying each of the required elements.

The drug and alcohol checklist includes, but is not limited to:

- Policies
- Procedures for managing program

- Employee training
- Procedures for conducting testing

The City of Concord requires subrecipients to submit annual reports using the Drug & Alcohol Management Information System (DAMIS) forms provided by FTA.

L. Section 5310 Program Management

A. Maintenance

Consistent with federal requirements, each subrecipient must maintain its facilities (and substantial facility components), vehicles, and other substantial assets.

Subrecipients would be required to submit an annual Owned Rolling Stock Inventory. The inventory will include the following information:

- i. Year/Make/Model or other ID
- ii. Vehicle Identification Number
- iii. Agency Vehicle Number
- iv. Condition
- v. Age
- vi. Remaining Useful Life
- vii. Replacement Cost
- viii. ADA Accessibility

The information obtained from these inventories will become part of the inventory record.

Recipients and subrecipients shall maintain equipment maintenance and inspection records for equipment procured with 5310 funds. Recipients will be required to service the vehicle(s) and equipment, at a minimum, in accordance with the maintenance schedules, and to keep records to show that service was completed. Each recipient will submit certification that service is completed at least as scheduled per the owner’s manuals. Request for certification will be sent out annually by The City of Concord. During an annual inspection, and/or audit, The City of Concord will request maintenance records and will randomly pick maintenance reports to review to ensure compliance with these provisions and all applicable FTA requirements.

B. Vehicle Procurement

When procuring a property, supplies, equipment, or services with funds from an FTA grant, designated recipients that are not states and their subrecipients must comply with FTA procurement requirements at 49 CFR Part 18 and guidance contained in the current FTA Circular 4220.1.

C. Pre-Award and Post-Delivery Reviews

Procurements for vehicles, other than sedans or unmodified vans, must be audited in accordance with 49 CFR Part 663, “Pre-Award and Post-Delivery Audits of Rolling Stock Purchases. “ Additional guidance is available in the manual, “Conducting Pre-Award and Post-Delivery Reviews for Bus Procurement” on FTA’s website:

www.fta.dot.gov/legislation_law/12921_5424.html. The regulation requires any recipient or subrecipient that purchases rolling stock for use in revenue service with funds obligated after October 24, 1991, to conduct a pre-award and post-delivery review to ensure compliance with its bid specifications, Buy America requirements, and federal motor vehicle safety requirements, and to complete specific certifications. Purchase of more than twenty vehicles for use in areas under 200,000 in population (more than ten, for large urbanized areas), other than unmodified vans or sedans, requires in-plant inspection. In the case of consolidated state procurements on behalf of multiple subrecipients, the in-plant inspection requirement is triggered only if a single subrecipient will receive more than ten or more than twenty vehicles, depending on area size.

D. Program Management

The City of Concord will monitor all local projects to ensure that subrecipients have met or will meet all Federal requirements consistent with FTA Circular C 5010.1D, “Grant Management Requirements”.

E. Financial Management, Reporting and Accounting

The City of Concord maintains financial management systems for financial reporting, accounting records, internal controls, and budget controls subject to standards specified in state laws enforced by the State Auditor and the State Office of Financial Management. All systems and procedures for financial management are in compliance with 49 CFR 18.20, the “Common Rule.”

The City of Concord will develop and execute grant agreements to those sponsors who are not eligible for direct recipient status after FTA funds are secured. All project-related expenditures are incurred locally and reported to the City of Concord after the agreements have been signed. All grant agreements for capital projects detail the equipment approved for purchase and its intended use. Agreements for operating projects must outline the type of service, the intended beneficiary, and the service area. Planning projects are outlined in the agreement's scope of work and exhibits. All project-related expenses are incurred locally and are reported to the City of Concord after the agreements have been signed.

The City of Concord reimburses the subrecipient with the federal funds based on the proportions identified on the grant agreement. However, the federal share on any project shall not exceed 80 percent for capital projects and 50 percent for operating projects.

Subrecipients retain the original receipts for all eligible project expenditures. For capital projects, including purchase of service, subrecipients are required to attach copies of vendor invoices to reimbursement requests. For operating projects, subrecipients are not required to submit copies of vendor invoices. However, copies of receipts as well as any spreadsheets or logs developed to track costs, must be retained for verification during the City of Concord site visits. For planning projects, subrecipients must submit completed plans to the City of Concord as a product of the agreement. Vehicle licensing and insurance are not eligible for capital project reimbursement. Sales and use taxes charged to the grantee for vehicles are eligible for reimbursement. This amount must exclude the local transit portion of sales tax. The City of Concord maintains individual data for each subrecipient. This data tracks project expenses, amounts charged to each funding source awarded, local matching sources, and project budgets.

F. Property Management

Legal ownership of all vehicles purchased under the §5310 program is retained by the City of Concord. When titling a vehicle, subrecipients are listed as "Registered Owner," responsible for licensing and collision insurance; and the City of Concord as "Legal Owner" and loss payee should anything happen to the vehicle. The City of Concord has designed a database that contains all vehicle and equipment inventory records. Reports in this database distinguish between currently owned vehicles and those that have served their useful life and have been released to the sub recipient. Examples of the information in the database include the subrecipient's name, address and phone number, vehicle year, make, and model, date accepted, equipment location, federal grant number, state agreement number, federal percentage share, date last inspected, recorded mileage, condition, type of funding used for the purchase, and other information used by the City of Concord for program review and reporting.

G. Audits and Close Outs

The City of Concord shall conduct a single audit consistent with the City's audit policies and procedures. Subrecipients who are private non-profit organizations or private for-profit firms are required to obtain audits of their expenditures and operations annually by an independent audit firm if their agency has expended in excess of \$50,000 in the Federal fiscal year. The audit firm is instructed by the subrecipient to send a copy of the report to the City of Concord the year after they incur grant-related expenditures. NCDOT's Audit Office shall review the audit reports for compliance with *OMB Circular A-110, A-122, and A-133*. Any questions raised by the Audit Office must be resolved by the subrecipient and the audit firm preparing the audit report. In cases of gross mismanagement, fraud or non-

performance of the project, the City of Concord would cut off funds and pursue legal remedies when possible. In some cases assets acquired with funds from the grant may be taken away or transferred to other agencies to ensure that public funds are not wasted but put to proper use.

For internal financial reasons, the City of Concord closes projects several months after reimbursing the subrecipient for the last of its eligible expenditures. The process is one of the following:

- Verification by the City of Concord with the subrecipient’s representative that all project expenditures have been incurred and reimbursed, or
- All funding available in the subrecipient agreement has been reimbursed, or
- The project has come to the end of its 2-year term

Capital assistance for equipment have a term equivalent to the useful life of the equipment purchased, which may be up to twelve years after acceptance of the equipment. The area MPO may amend or terminate capital assistance agreements when project equipment is transferred between subrecipients before its useful life has been reached. Operating assistance agreements have a term of 24 months and are not extended or closed prior to the end date of the agreement.

References

USDOT, Federal Transit Administration, Circular FTA C9070.1G

NCDOT Program Overview Enhanced Mobility of Seniors and Individuals with Disabilities Program (Federal Section 5310)

Cabarrus County, Coordinated Transportation Plan

City of Raleigh/Capital Area Metropolitan Planning Organization, Section 5310 Program Management Plan, 2015

Greater Hickory Metropolitan Planning Organization, Section 5310 Program Management Plan, June 2014

Winston-Salem Urban Area Metropolitan Planning Organization, Section 5310 Program Management Plan, March 2015

Wave Cape Fear Public Transportation Authority, Section 5310 Program Management Plan, March 2015

Appendices

Appendix A: Concord Urbanized Area

Appendix B: Section 5310 Application Form

Appendix C: Subrecipient Application Letter

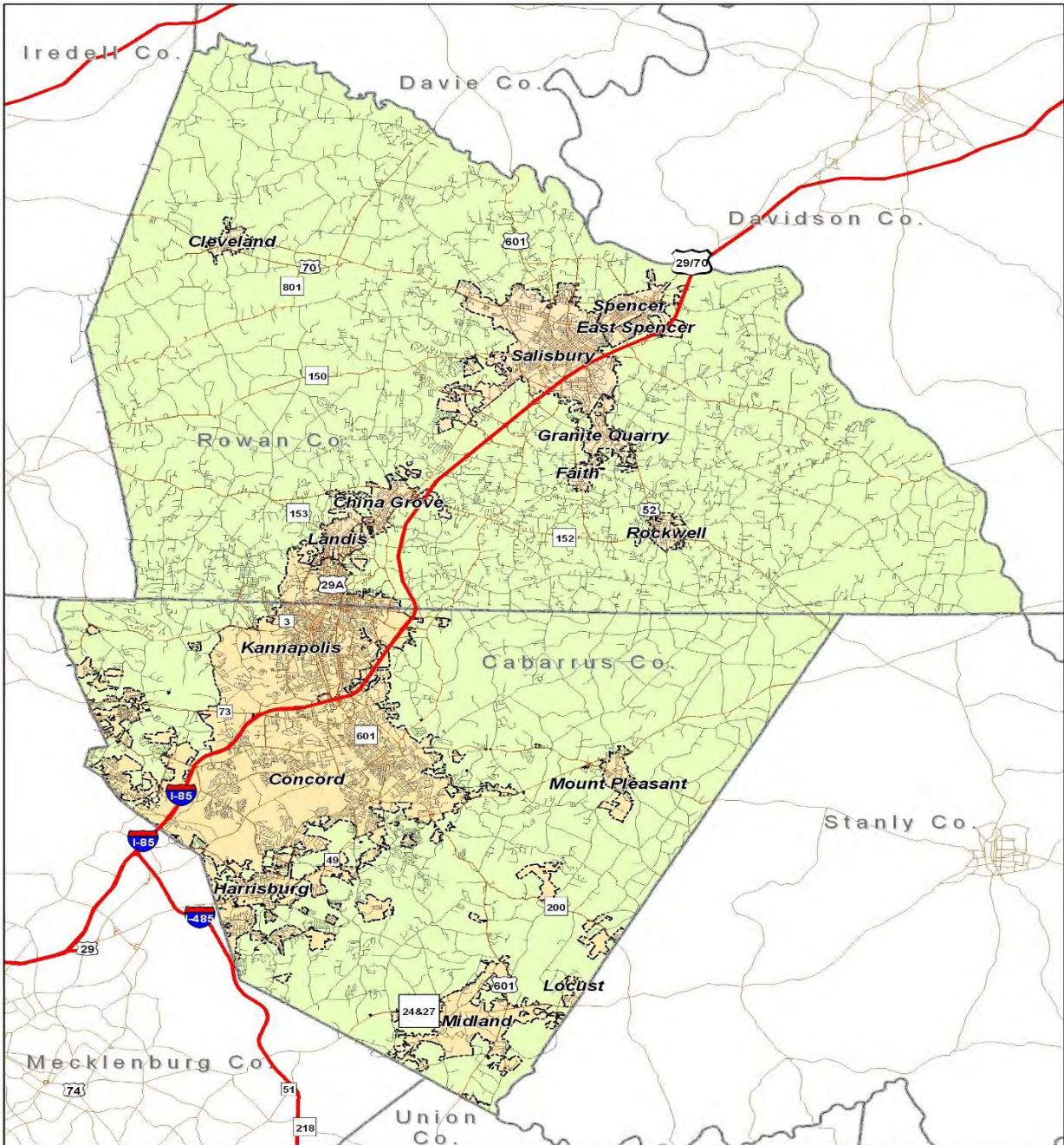
Appendix D: Checklist for Project Manager Review of A-133 Audit Findings

Appendix E: Definitions

Appendix F: City of Concord Direct Recipient Documents

Appendix G: Cabarrus County Coordinated Transportation Plan

Appendix A: Concord Urbanized Area



Appendix B: Section 5310 Application Form

Section 5310 Funding Program Application

Please complete Parts I – III of the 5310 Funding Program Application. Return the completed application to the City of Concord as noted in the Application Process Section.

Part I – Funding Request

Applicant Information

Organization Name: _____

Contact Person: _____

Address: _____

City, State, Zip: _____

Telephone: _____ Fax: _____

Email: _____

Website: _____

Project Information

Title: _____

Brief Description: _____

Project Type: Traditional _____ Other _____

Service days/hours (if applicable): _____

Estimated Cost per One-Way Trip (if applicable): _____

Estimated Daily Riders per Weekday/Weekend (if applicable): _____

Part II – Project Narrative

Please complete the Project Narrative questions below for your application. These questions closely align with the Project Selection Criteria included in the 5310 Program Management Plan and 5310 Application Package.

Expanded Project Description

Please use this space to expand on your project description beyond the brief description provided in Part I of the application.

Project Needs

How is the proposed project consistent with eligible 5310 program activities and objectives of the 5310 funding program?

Describe how the project will increase or enhance the availability of transportation for the elderly and disabled populations in the Concord Urbanized Area?

What need(s) does the project address in the Local Coordinated Plan? Please provide the page number(s) in the Local Coordinated Plan your project corresponds with.

Does the project provide a service or investment that otherwise would not be available? If so, please explain.

Project Planning and Implementation

Describe how the proposed project might coordinate or link with other transportation providers or transportation stakeholders?

Describe the project timeline and project lifespan?

Please note how you plan to market your proposed project? If an existing service, note how your service is currently marketed?

When could your project begin upon receiving funding? Describe the process your organization would take to implement the project.

Project Budget

Draft Program Management Plan

In addition to filling out the Proposed Project Budget, note any plans for continued investment and/or maintenance for the proposed project after the 5310 funds are spent.

Program Effectiveness and Evaluation

How does your organization plan to collect information to monitor quality control and customer satisfaction related to implementing the proposed project? Include in your description any measurable indicators you propose to use.

Organizational Preparedness

Describe the staffing plan for this project. Who would be the primary staff person responsible for managing the grant? What other staff would be involved? Describe any relevant past experience these staff have in working on the type of project proposed.

Please note any experience your organization has with financial reporting such as quarterly reports, annual audits and/or other forms of financial reporting.

Describe any training, maintenance, inspections and/or service monitoring you plan to do focused on managing risk and providing safe services?

Part III – Proposed Project Budget

Project Funding

Local matching funds are required for all application submittals. For projects requiring operating funds the required match is 50% from non-federal transportation funds. For capital projects the required match is 20% + from non-federal transportation funds. Some potential capital match exceptions are noted in the FTA guidance and the City of Concord 5310 Program Management Plan.

Total Project Budget	\$ _____	
Capital Federal Share	\$ _____	_____ %
Capital Local Match	\$ _____	_____ %
Operating Federal Share	\$ _____	_____ %
Operating Local Match	\$ _____	_____ %

Local Match Fund Source: _____

Note: The applicant must demonstrate a commitment to provide local funds and provide appropriate documentation. Documentation may be in the form of a letter or other supporting documentation noting where funds will be drawn from.

Appendix C: Subrecipient Application Letter

Date

Name

Address

City, State, Zip

RE: Subrecipient Project XXX

Federal Transit Administration Apportionment City of Concord Application for Section 5310 FTA Funding.

Dear Subrecipient:

The City of Concord, as the designated recipient of Federal Transit Administration (FTA) funds for the Concord Urbanized Area, will make an application for FTA to support the above referenced project. By accepting these federal funds, your organization will be recognized as a subrecipient and, as much, is subject to all FTA federal requirements.

I have been assigned as the City of Concord’s project manager for project oversight and will coordinate the process with you. The subrecipient agreement will be processed concurrently with the federal application to help shorten the process; however, no agreement can be executed until the federal award is received. As part of the application process, you will be required to complete the application form that provides the project detail, budget, and milestones. You will also be required to submit your current A-133 audit information and sign the FTA Certifications and Assurances. No application for federal funds will be made until this information is received and accepted.

Please send all questions regarding compliance or needs for approval directly to me so I can track the required approvals or changes to your project. I will forward requests to the appropriate staff to obtain approvals or interpretations. Please note that Certifications and Assurances must be completed annually for the duration of your active grant. All organizations are required to certify compliance with numbers one and three. If other certifications apply to this project and your organization, you also should certify those.

Once the application is processed and awarded, The City of Concord will be able to enter into a subrecipient agreement with your organization. Until the Subrecipient agreement is signed, you do not have funding.

I look forward to working with you throughout the grant process.

Regards,

Project Manager’s Name

Project Manager’s Title

Appendix D: Checklist for Project Manager Review of A-133 Audit Findings

Checklist for Project Manager Review of A-133 Audit Findings

Subrecipient _____
Fiscal Year _____
Project Manager _____

Please review each finding and check appropriate box based upon review of selected invoice(s) to assure charges are allowable & there is sufficient documentation to validate the expense.

Finding (List findings below)	Sufficient Documentation	Insufficient Documentation	N/A	Other

Project Manager _____
Date Reviewed _____

Appendix E: Definitions

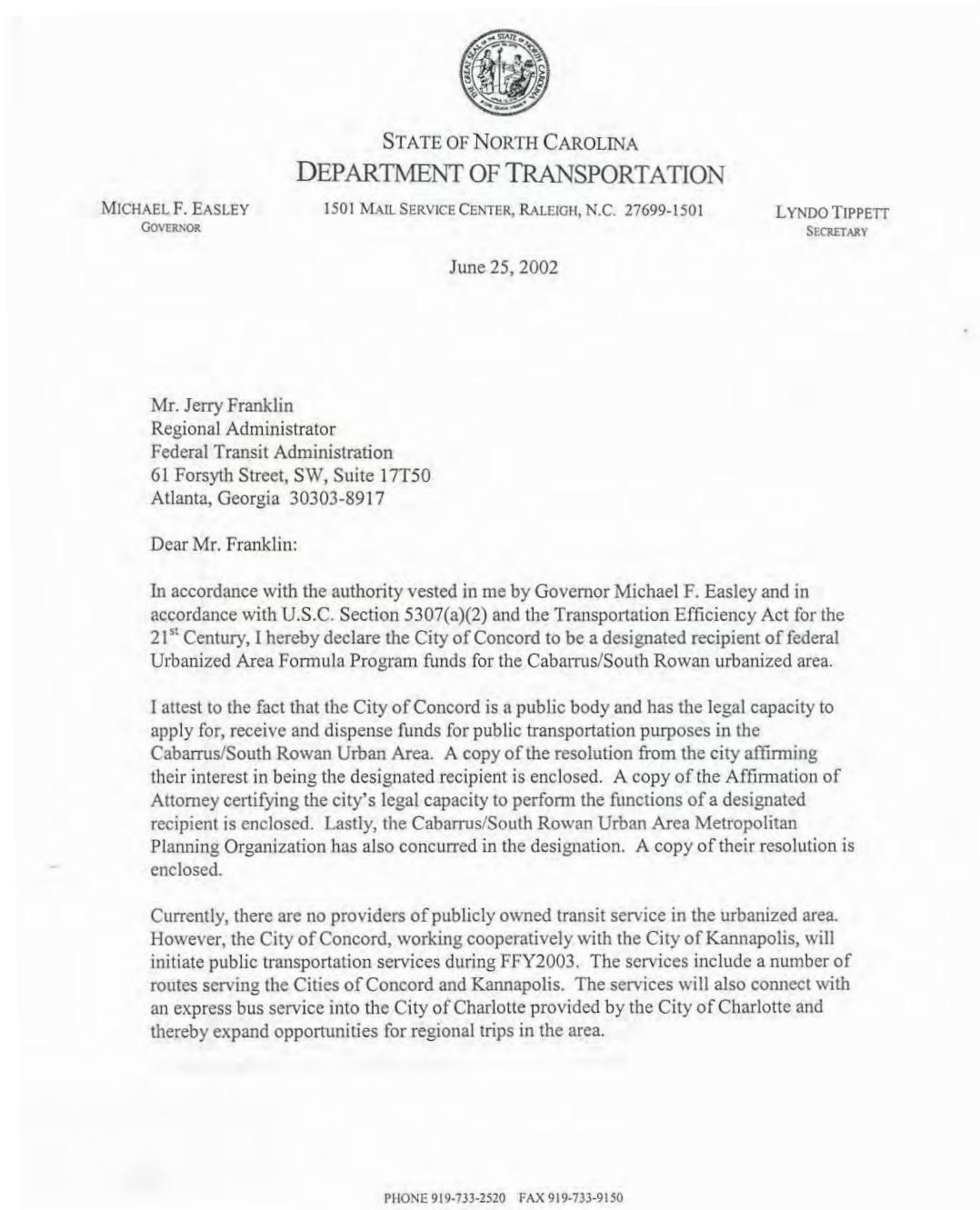
- **Aging Population:** See “Senior.”
- **Americans with Disabilities Act (ADA):** is Public Law 336 of the 101st Congress, enacted July 26, 1990 (42 U.S.C. 12101 et seq.), and later amended January 1, 2009. The ADA prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state, and local government services, public accommodations, commercial facilities, and transportation.
- **Capital Expense:** an expense directly related to the acquisition, construction, and improvement of facilities or equipment used for public transportation purposes, including, but not limited to, vehicles and related equipment.
- **Coordinated Local Plan:** is a transportation services provided by or on behalf of a human service agency to provide access to agency services and/or to meet the basic, day-to-day mobility needs of transportation-disadvantaged populations, especially individuals with disabilities, older adults, and people with lower income.
- **Designated Recipient:** an entity designated, in accordance with the planning process under sections 303 and 5304 of Title 49, United States Code, by the governor of a state, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under 49 U.S.C. 5336 to urbanized areas of 200,000 or more in population; or a state or regional authority, if the authority is responsible under the laws of a state for a capital project and for financing and directly providing public transportation.
- **Disability:** has the same meaning as in section III (a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102). The term “disability” means, with respect to an individual-
 - A physical or mental impairment that substantially limits one or more major life activities of such individual;
 - A record of such an impairment; or
 - Being regarded as having such an impairment.
- **Equipment:** an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost that equals or exceeds the lesser of the capitalization level established by the governmental unit for financial statement purposes, or \$5,000. Equipment includes rolling stock and all other such property used in the provision of public transit service.
- **Grant:** an award of financial assistance, including a cooperative agreement, in the form of money, or property in lieu of money, by the federal government to an eligible recipient or recipients. Used interchangeably with grant agreement.
- **Human Service Transportation:** transportation services provided by or on behalf of a human service agency to provide access to agency services and/or to meet the basic,

day-to-day mobility needs of transportation-disadvantaged populations, especially individuals with disabilities, seniors, and people with low incomes.

- **Individual with a Disability:** an individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use effectively, without special facilities, planning, or design, public transportation service or a public transportation facility. 49 U.S.C. 5302(a)(5).
- **Large Urbanized Area:** an urbanized area (UZA) with a population of 200,000 or more individuals, as determined by the Bureau of the Census.
- **Local Government Agency:** includes a political subdivision of a state; an authority of at least one state or political subdivision of a state; an Indian tribal government; and a public corporation, board, or commission established under the laws of a state.
- **Master Agreement:** an FTA official document containing FTA and other cross-cutting federal requirements applicable to the FTA recipient and its project(s). The master agreement is generally revised annually in October. The master agreement is incorporated by reference and made part of each FTA grant, cooperative agreement, and amendment thereto.
- **Mobility Management:** consists of short-range planning and management activities and projects for improving coordination among public transportation and other transportation-service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a government entity, under 49 U.S.C. Chapter 53 (other than Section 5309). Mobility management does not include operating public transportation services.
- **Net Project Cost:** part of the project that reasonably cannot be financed from operating revenues (i.e., farebox recovery).
- **Nonprofit Organization:** A corporation or association determined by the Secretary of the Treasury to be an organization described by 25 U.S.C. 501(c) which is exempt from taxation under 26 U.S.C. 501(a) or one which has been determined under state law to be nonprofit and for which the designated state agency has received documentation certifying the status of the nonprofit organization.
- **Older Adults:** See “Senior.”
- **Operating Expenses:** Those costs necessary to operate, maintain, and manage a public transportation system. Operating expenses usually include such costs as driver salaries, fuel, and items having a useful life of less than one year.
- **Paratransit:** comparable transportation service required by the ADA for individuals with disabilities who are unable to use fixed-route public transportation systems.
- **Pre-award Authority:** authority given under specific and limited circumstances to incur costs for eligible projects before a grant is made without prejudice to possible Federal participation in the cost of the project(s). Applicants must comply with all Federal requirements. Failure to do so will render a project ineligible for FTA financial assistance.

- **Program of Projects:** a list of projects to be funded in a grant application submitted to FTA by a recipient. The program of projects (POP) lists the subrecipients and indicates whether they are private nonprofit agencies or local governmental authorities, designates the areas served (including rural areas), and identifies any tribal entities. In addition, the POP includes a brief description of the projects, total project costs, Federal share for each project, and the amount of funds used for program administration from the 10 percent allowed.
- **Public Transportation:** regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income, and does not include: intercity passenger rail transportation provided by Amtrak, intercity bus service, charter bus service, school bus service, sightseeing service, courtesy shuttle service for patrons of one or more specific establishments, or intraterminal or intrafacility shuttle services.
- **Recipient:** for purposes of this circular, a designated recipient or a state that receives a grant under Section 5310 directly.
- **Rural Area:** an area encompassing a population of fewer than 50,000 people that has not been designated in the most recent decennial census as an urbanized area by the Secretary of Commerce.
- **Senior:** an individual who is 65 years of age or older.
- **Small Urbanized Areas:** a UZA with a population of at least 50,000 but less than 200,000 as determined by the Bureau of the Census.
- **Subrecipient:** a state or local governmental authority, a private nonprofit organization, or an operator of public transportation that receives a grant under Section 5310 indirectly through a recipient.
- **Traditional Section 5310 Projects:** those public transportation capital projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable.
- **Transportation Improvement Plan (TIP):** a six-year program of highway and transit projects for the urbanized areas. It is a compilation of projects from the various federal, state, and local funding programs for all the cities and counties in the Region, as well as for the state DOT and the local transit agencies.
- **Urbanized Area (UZA):** an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an urbanized area by the Secretary of Commerce.

Appendix F: Designated Recipient Documents



STATE OF NORTH CAROLINA
 DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
 GOVERNOR

1501 MAIL SERVICE CENTER, RALEIGH, N.C. 27699-1501

LYNDO TIPPETT
 SECRETARY

June 25, 2002

Mr. Jerry Franklin
 Regional Administrator
 Federal Transit Administration
 61 Forsyth Street, SW, Suite 17T50
 Atlanta, Georgia 30303-8917

Dear Mr. Franklin:

In accordance with the authority vested in me by Governor Michael F. Easley and in accordance with U.S.C. Section 5307(a)(2) and the Transportation Efficiency Act for the 21st Century, I hereby declare the City of Concord to be a designated recipient of federal Urbanized Area Formula Program funds for the Cabarrus/South Rowan urbanized area.

I attest to the fact that the City of Concord is a public body and has the legal capacity to apply for, receive and dispense funds for public transportation purposes in the Cabarrus/South Rowan Urban Area. A copy of the resolution from the city affirming their interest in being the designated recipient is enclosed. A copy of the Affirmation of Attorney certifying the city's legal capacity to perform the functions of a designated recipient is enclosed. Lastly, the Cabarrus/South Rowan Urban Area Metropolitan Planning Organization has also concurred in the designation. A copy of their resolution is enclosed.

Currently, there are no providers of publicly owned transit service in the urbanized area. However, the City of Concord, working cooperatively with the City of Kannapolis, will initiate public transportation services during FFY2003. The services include a number of routes serving the Cities of Concord and Kannapolis. The services will also connect with an express bus service into the City of Charlotte provided by the City of Charlotte and thereby expand opportunities for regional trips in the area.


PHONE 919-733-2520 FAX 919-733-9150



Mr. Jerry Franklin
June 25, 2002
Page 2

Thank you for your continued support of our public transportation efforts in North Carolina. Please contact Mr. Michael Kozak, Assistant Director for Metropolitan Transportation in the Public Transportation Division at 919-733-4713, extension 229, if you have any questions about this designation.

Sincerely,



Lyndo Tippet

LT/DW

Enclosures (3)

cc: Ken Geathers, Chair, Cabarrus/South Rowan Urban Area Transportation
Advisory Committee
J. Scott Padgett, Mayor, City of Concord
Ray Moss, Mayor, City of Kannapolis
Michael Kozak, Public Transportation Division, NCDOT



A RESOLUTION AGREEING TO DESIGNATION OF THE CITY OF CONCORD AS A RECIPIENT FOR FEDERAL FORMAL FUNDING FOR THE CABARRUS SOUTH ROWAN URBAN AREA PUBLIC TRANSPORTATION SYSTEM

WHEREAS, the Cabarrus South Rowan Urban Area Public Transportation System is to be a publicly owned operator of transit service; and

WHEREAS, the Cabarrus South Rowan Urban Area Public Transportation System wishes to receive federal transportation assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code and other federal statutes administered by the Federal Transit Administration; and

WHEREAS, Article 26, Section 160A-603(e) of the North Carolina General Statutes say the City of Concord may become a Designated Recipient pursuant to the Urban Mass Transportation Act of 1964 as amended; and

WHEREAS, the Cabarrus South Rowan Urban Area Public Transportation System, as the provider of publicly owned transit services, proposed the designation of the City of Concord as a recipient of federal funds for the Cabarrus South Rowan Urban Area Public Transportation System; and

WHEREAS, all federal funds received by the City of Concord for the Cabarrus South Rowan Urban Area Public Transportation System will be programmed by the Metropolitan Planning Organization through the Unified Planning Work Program, and the Transportation Improvement Program, and the allocation of funds will be reviewed annually.

NOW, THEREFORE, BE IT RESOLVED that the City of Concord agrees to be the designated recipient of federal funding for the Cabarrus South Rowan Urban Area Public Transportation System, including all responsibilities associated with such designation.

Adopted the 30th day of May, 2002.



CITY COUNCIL
CITY OF CONCORD
NORTH CAROLINA

J. Scott Padgett
J. Scott Padgett, Mayor

ATTEST:

Vickie C. Weant
Vickie C. Weant, City Clerk



AFFIRMATION OF ATTORNEY FOR THE CITY OF CONCORD

As the undersigned legal counsel for the City of Concord, I hereby affirm that the City of Concord has legal capacity, pursuant to North Carolina General Statute 160A-461, to perform the functions of a designated recipient in accordance with 49 U.S.C. 5307.

This affirmation of legal capacity is made in conjunction with effort to designate the City of Concord as a recipient for federal formula funding in the Cabarrus-South Rowan Urban Area Metropolitan Planning Organization. The designation is supported by a resolution adopted by the Cabarrus-South Rowan Transportation Advisory Committee.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or threatened or other legal impediment that might adversely affect the validity of this affirmation, I will notify the North Carolina Department of Transportation and the Federal Transit Administration promptly.

Date: 6/12/02

Robert E. Cansler
Robert Cansler
Assistant City Attorney
City of Concord

Public Transportation Division

JUN 18 2002

RECEIVED



**CABARRUS / SOUTH ROWAN URBAN AREA
METROPOLITAN PLANNING ORGANIZATION**

SOUTH ROWAN • CABARRUS • CHINA GROVE • LANDIS • KANNAPOLIS • CONCORD • HARRISBURG

May 3, 2002

Secretary Lyndo Tippet
North Carolina Department of Transportation
1550 Mail Service Center
Raleigh, North Carolina 27699-1550

Dear Secretary Tippet:

SUBJECT: Designation for Federal Formal Funding 5307

Please find enclosed, for your action, the signed original of the resolution supporting the designation of the City of Concord as a recipient for federal funding for the Cabarrus-South Rowan Urban Area public transportation funds. The Transportation Advisory Committee for the Cabarrus-South Rowan MPO adopted this resolution by a unanimous vote at the June 20, 2001 TAC meeting.

Sincerely,

Kenneth B. Geathers, Chairman
Transportation Advisory Committee
Cabarrus-South Rowan MPO

Enclosures

Cc: Mr. Sanford Cross, Director, Public Transportation Division
Mr. Mike Kozak, P. E., Urban Section Manager, Public Transportation Division
Linda Dosse, P. E., MPO Urban Area Coordinator

Public Transportation Division

JUN 4 - 2002

RECEIVED



CABARRUS / SOUTH ROWAN URBAN AREA METROPOLITAN PLANNING ORGANIZATION

SOUTH ROWAN • CABARRUS • CHINA GROVE • LANDIS • KANNAPOLIS • CONCORD • HARRISBURG

A RESOLUTION SUPPORTING THE DESIGNATION OF THE CITY OF CONCORD AS A RECIPIENT FOR FEDERAL FORMAL FUNDING FOR THE CABARRUS SOUTH ROWAN URBAN AREA PUBLIC TRANSPORTATION SYSTEM

WHEREAS, the Cabarrus South Rowan Urban Area Public Transportation System is a publicly owned operator of transit service; and

WHEREAS, the Cabarrus South Rowan Urban Area Public Transportation System wishes to receive federal transportation assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code and other federal statutes administered by the Federal Transit Administration; and

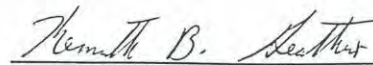
WHEREAS, Article 26, Section 160A-603(e) of the North Carolina General Statutes say "the City of Concord may become a Designated Recipient pursuant to the Urban Mass Transportation Act of 1964 as amended;" and

WHEREAS, the Cabarrus South Rowan Urban Area Public Transportation System, as the provided of publicly owned transit services, must concur in the designation of the City of Concord as a recipient of federal funds for the Cabarrus South Rowan Urban Area Public Transportation System if it is to be so designated; and

WHEREAS, all federal funds received by the City of Concord for the Cabarrus South Rowan Urban Area Public Transportation System will be programmed by the Metropolitan Planning Organization through the Unified Planning Work Program, and the Transportation Improvement Program, and the allocation of funds will be reviewed annually.

NOW, THEREFORE, BE IT RESOLVED that the Cabarrus South Rowan Urban Area Metropolitan Planning Organization's Transportation Advisory Committee (TAC) supports the designation of the City of Concord as a recipient of federal funding for the Cabarrus South Rowan Urban Area Public Transportation System.

Date: 05-08-02


Kenneth B. Geathers, Chairman
Transportation Advisory Committee
Cabarrus-South Rowan MPO



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR

PAT MCGROBY
GOVERNOR

March 5, 2014

Dr. Yvette Taylor
Region IV Administrator
Federal Transit Administration
230 Peachtree St. NW, Suite 800
Atlanta, Georgia 30303

Dear Dr. Taylor:

On July 6, 2012, the Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law 112-141, authorizing funding for surface transportation, was signed. As required in MAP-21, I hereby declare the following municipalities to be the designated recipients of the apportionments to their respective large urban areas for the Section 5310: Enhanced Mobility of Seniors and Individuals with Disabilities Program:

- The City of Winston-Salem endorsed by the Winston-Salem Urban Area Metropolitan Planning Organization;
- The City of Fayetteville endorsed by the Fayetteville Area Metropolitan Planning Organization;
- The City of Concord endorsed by the Cabarrus-Rowan Urban Area Metropolitan Planning Organization; and
- The City of Raleigh endorsed by the NC Capital Area Metropolitan Planning Organization.

These designated recipients will be responsible for the administration of the 5310 Program funds in their large urban area and for the oversight of any subrecipients they choose to receive and expend these funds. I respectfully request that the Federal Transit Administration allow these cities to apply for and receive the 5310 Program funds on behalf of their selected subrecipients. Thank you for your continued support of our public transportation effort in North Carolina.

Sincerely,


Pat McCrory

PM/DC

cc: Secretary Anthony Tata
Larry I. Williams, TAC Chair, Winston-Salem Urban Area MPC
Toneq McCullough, Director, City of Winston-Salem DOT



Greg Errett, Planning Manager, Transportation, City of Winston-Salem
Jean Powell, TAC Chair, Fayetteville Area MPO
Rick Heicksen, Executive Director, Fayetteville Area MPO
Giselle Rodriguez, City Engineer, City of Fayetteville
Lee Withers, TAC Chair, Cabarrus-Rowan Urban Area MPO
Phil Conrad, Executive Director, Cabarrus-Rowan Urban Area MPO
Joe Wilson III, Transportation Director, City of Concord
Ronnie Williams, TAC Chair, NC Capital Area MPO
Chris Lukasina, Executive Director, NC Capital Area MPO
Eric Lamb, Manager, Transportation Planning & Development
Debbie Collins, NCDOT
Richards Walls, NCDOT

Appendix G: Local Coordinated Plan

Cabarrus County Transportation Services (CCTS)

Cabarrus County

COORDINATED TRANSPORTATION SERVICE PLAN



Randy Bass
11/19/2009



Cabarrus County Coordinated Transportation Plan

In 2004, Cabarrus County took steps to bring transportation services in-house by becoming a Community Transportation Provider.

This was the first step in realizing its goal to provide solutions for the overall transportation system in Cabarrus County. In the years since this transition, Cabarrus County Transportation Services (CCTS) has seen a demand for its services increase in many areas. In 2004, CCTS provided 84,118 trips. The projection for trips in 2010 is 94,000.

Cabarrus County Transportation Services is governed by the Cabarrus County Board of Commissioners with a Transportation Advisory Board consisting of representatives of local governments, social service agencies, schools and the general public.

Regional Coordination

CCTS has a solid track record in coordination of public transportation services. This is due in part to the rapid growth trends in and around the county itself. The result has been a coordinated system ready to serve various sectors of the community when demand rose and social service agencies began pursuing transportation options for their clients.

The coordination of County and City services was strengthened in 2009 when CCTS partnered with the CK Rider to create service from the western parts of Cabarrus County to Concord Mills and the CK Rider transfer station. CCTS already shares trips with Mecklenburg County and Stanley County to provide service for citizens seeking out of town trips for medical needs. CCTS is contracted through CK Rider to provide the City's transit service area with complementary para-transit service to individuals who are not able to use the City's bus system.

Enhancing Services to Un-Served, Underserved Populations and General Public

Even as CCTS experiences increased demand for services from the community, it has developed a service model that effectively and efficiently services the needs of those in Cabarrus County who require point-to-point transportation services. CCTS has now reached a juncture in its growth that necessitates the agency begin looking at more conducive service types to continue to respond to demand and maximize available resources.

Through the CCTS Community Transportation Service Plan, countywide services to un-served, underserved and general public populations would be greatly enhanced through the realization of the recommendations contained in this plan. These recommendations are based on information gathered through the Coordinated Service Plan process, analysis of existing demographics and CCTS service, and examination of potential coordination with the CK Rider System.

CCTS and CK Rider Plan Recommendations

The strong relationship between CCTS and CK Rider will continue to strengthen in future years as the two services and the incorporated and unincorporated areas of the County become dependent upon one another for transportation as they have been dependent on one another for access to jobs, medical services and cultural activities for decades. The continued success of CCTS



Cabarrus County Coordinated Transportation Plan

and growth in passengers and trips, are also dependent on this cooperation as there is a strong need for services that are not sensitive to geographic or political boundaries.

Many of the recommendations contained in the CTSP, as well as the associated Coordinated Plan are dependent on operational, administrative and funding partnerships between CCTS and the CK Rider as well as other regional stakeholders. These recommendations are outlined below.

Joint CCTS and CK Rider Initiatives. The Coordinated Plan process and public involvement efforts within the Regional Plan identified several areas whereby CCTS and CK Rider should jointly pursue various organizational, marketing, capital and operations efforts in order to provide an integrated regional transit system and allow the region access to federal funding sources that are intended for such coordinated purposes.

The organization and marketing program priorities are intended to provide for public and elected officials' education and create a common identity for transit within Cabarrus County. The specific initiatives have been identified as:

- Establish a One-Stop Shop and Mobility Management Program;
- Conduct a Marketing Analysis and Outreach Program; and
- Establish Incentive Programs to encourage transit riders to use the system
- Increase marketing with the medical community
- Seek more outreach with our Hispanic community

A set of Capital and Operations Program priorities were also identified to address specific service types and options that can benefit both CCTS and CK Rider and require cross-agency coordination. These are:

- Pursuing reverse commute services options
- Expanding geography of existing routes and services
- Creating express routes
- Connecting the Research Campus in Kannapolis and UNCC
- Adding Sunday hours of service for both CK Rider and CCTS
- Work with UNCC to add shuttle and express bus service to the campus.

Flexible Route Options. One such service example for the US Highway 29 corridor and potentially other areas of the City and County, is the concept of flexible or deviated fixed route services crossing over into regional areas. While traditional public transportation service has focused on higher density population centers concentrated along high travel corridors, some communities are exploring alternative means of integrating this binary model into a flexible transit service model.

Often, a transit system will operate flexible service as a way to combine fixed route service with demand response service in order to increase efficiencies and service additional patrons. As the region grows and demand increases for CK Rider and CCTS, the option for a flexible route will be more suitable. There are three common circumstances under which flexible transit service is used by many transit agencies:

- *To provide service in limited areas considered hard to serve for reasons of demographics, street layout, or community preferences;*



Cabarrus County Coordinated Transportation Plan

- To provide service in low-demand time periods. In cities with ample fixed-route service, flexible operation typically substitutes for fixed-route operation in limited areas. In some cities with more limited fixed-route service, flexible operation replaces the entire fixed-route network at certain times; or
- To provide the entire transit service for a small city, low-density suburban area, or rural area. In these cases, coordination or consolidation with para-transit service is a key feature of the flexible service.

Maximize Use of Technology. CCTS should begin pursuing greater integration of technology within the management of its fleet and services as growth in the size of the CCTS fleet continues. Increased demand by the public, coordination with CK Rider, and the evolution of the region from a small- or medium-sized to a large metropolitan region will lead to a need to incorporate various technologies available to the public transportation industry.

There are various vehicle-based technologies that can also be utilized by CCTS to continue to provide a high level of service to its present and future customers. CCTS has already begun exploring the possibility of providing greater web-based scheduling and dispatching functions and has been proactive with the RouteMatch system to pursue the acquisition of automated vehicle location (AVL) technology to track the location and usage of its fleet.

Coordination with Other Counties. There is a desire within CCTS management to reach out and work with neighboring counties to identify areas for additional coordination, as CCTS provided numerous trips to medical centers outside the region in the past year. If more community transportation services in additional counties were willing to partner and coordinate scheduling information with CCTS, there is the possibility for these services to be combined to lessen the mileage and cost burden on operating a less-than-full vehicle during these medical trips.

Mission

CCTS's mission is to provide safe, reliable and efficient transportation services to all the residents of Cabarrus County, North Carolina. CCTS is the community transportation provider for Cabarrus County; the offices and fleet are located in Concord, North Carolina.

Benefits to the Community

Public transportation is often an overlooked component to providing comprehensive social service programs and access to important destinations for members of the general public. While there is almost universal recognition of the need to provide basic healthcare, education and social support, individuals with these needs are oftentimes unable to provide for their own transportation due to a disability, lack of financial resources or other circumstances.

In providing access for citizens to vital employment, healthcare and other social services, CCTS is an integral part of the social service arrangement within County. As CCTS has evolved, it has begun to transcend its traditional role of providing a social service to also providing a critical link in the region's transportation and economic system. This was particularly true during the summer of 2008 when gas prices spiked and many community members were unable to afford fuel for needed trips that they would normally make in their personal vehicle. CCTS, as well as CK Rider, saw record levels of demand during this period and notable increases in commuters using the system.



Cabarrus County Coordinated Transportation Plan

Public Involvement

The public outreach component of the CCTS Community Transportation Service Plan has been coordinated in cooperation with the Coordinated Human Service Transportation Plan to collectively involve residents of Cabarrus County.

Coordinated Service Plan Workshop. Through the leadership of the CCTS a Coordinated Plan workshop was conducted in Kannapolis, September 24, 2009 for the purposes of gathering input for the Coordinated Service Plan from local stakeholders and transportation service providers. Thirty-three representatives from local municipalities, service agencies, youth councils and emergency service providers attended the workshop. The workshop attendees identified a regional vision for coordinated human service transportation and public transportation. The results of the workshop formed the basis of the remainder of joint transit planning effort.

Vision and Goals

Establishing a vision for public transportation services in Cabarrus County began at the in 2006 with the first ever Coordinated Service Plan workshop. Through preliminary work with the CCTS Transportation Advisory Board, and outreach to the general public, it was determined that the vision and goals established through the Coordinated Service Plan process would also suffice as a vision for public transportation services in the county and region. The Coordinated Service Plan would fulfill the vision for a fully coordinated public transportation system that would also fulfill the purpose of developing a system with a regional focus.

The purposes of the vision are to provide for a more focused discussion on public transportation topics; serve as a check and balance for ideas generated during the workshop, public outreach and the planning process; and guide potential transportation projects.

The regional vision for coordinated human service transportation and public transportation is:

“To provide transportation services that enable individuals in need to access necessary medical care and other resources that can improve and enhance their quality of life. By providing transportation for essential services, we promote an independent lifestyle that allows individuals to remain in their homes as long as possible.”

Establishing the Vision

What should Cabarrus County and the surrounding cities and towns do to develop a regional public transportation system? Things that will...

- Coordinate services;
- Provide efficient travel;
- Serve employment and population centers;
- Reduce congestion;
- Address the needs of all populations;
- Provide economical transportation; and
- Ensure access to all.



Cabarrus County Coordinated Transportation Plan

Identifying Goals that Build the Vision

The workshop helped participants to sort the results of the visioning exercise into distinct categories, which would comprise the goals of the vision. Participants were then asked to vote on their top overall priorities. The results of this prioritization exercise are captured below with bullets listed in priority order as established through the public involvement process.

GOAL #1 – Provide Adequate Infrastructure

- Park and Ride sites;
- Bus shelters with easy-to-read schedules;
- Build pull-out lanes for bus stops;
- Convenient pick-up/drop-off locations;
- Green technology; and
- Encourage carpooling among drivers
- Vanpools
- Shuttle service between Research Campus and UNCC
- Express bus service direct to UNCC Campus from locations outside of Mecklenburg
- Continue & expand service in Midland, Mount Pleasant, and Harrisburg region.

GOAL #2 – Maximize Financial Resources

- Cost-effective financial resources and affordable transportation services;
- Vouchers for low/no-income population;
- Coordinated fare system;
- More funding streams;

GOAL #3 – Expand Access and Increase Services

- More rural transportation;
- Coordinated drop-off areas so rural residents can use city buses; including Fishertown
- Buses for city travel; mini-buses for outlying areas;
- Provide transportation for disabled persons not on Medicaid and seniors;
- Coordinate transit services across county lines;
- More service for County residents;
- Easily accessible to everyone;
- Longer hours on Saturday and Sunday service for CK Rider & CCTS,
- Transportation options;
- Identify key destinations;
- Interconnectivity between communities;
- Provide more bus stops;
- More buses are needed in order to increase frequency of stops to decrease time it takes to get around the CK Rider routes;
- Varied schedule and access to rural areas;
- Set routes where possible; and
- Multi-modal efficient routes that is easily accessible to all citizens.
- Expand Cabarrus Link's service hours on Saturday & Sunday.

GOAL #4 – Increase Coordination

- Better cooperation between governing entities;



Cabarrus County Coordinated Transportation Plan

- One-Call Center;
- Offer mobility training to both CCTS & CK Rider customers
- Obtain key stakeholder support for regional approach;
- Jointly apply for more grant funds;
- Better cooperation among municipalities and county; and
- City and County work together.

GOAL #5 – Plan for the Future

- Implement advanced transit technology to enhance scheduling/efficiency;
- Better urban growth planning;
- Annual meeting bringing all of the stakeholders together
- Automated Vehicle Location technology.

GOAL #6 - Educate the Public and Stakeholders

- County-wide education;
- Work to change citizens' perceptions about public transportation;
- Develop a fundamental marketing program; and
- Obtain buy-in from local merchants.



Prospects for Regional Governance

As Cabarrus County has grown in population there has been increasing discussion regarding the potential for establishing some type of regional transportation authority that could oversee CCTS and CK Rider. The State of North Carolina, through General Statute 25 - Public Transportation Authorities, allows for the establishment of regional transit authorities (RTA) to provide for "safe, adequate, and convenient" public transit systems for municipalities and their immediate environs. The law states that a municipality "may, by resolution or ordinance, create a transportation authority." The establishment of an RTA extends its powers to include "all local public passenger transportation" services that operate within the corporate boundaries of the municipality. The law also states that the boundaries of the RTA "shall also extend up to 30 miles outside of the corporate limits of the municipality where the municipality is a town or a city, and up to five miles outside of the boundaries" of the county. If initiated by the City of Concord, the establishment of an RTA would require the consent of Cabarrus County. An RTA established by the County would require the consent of municipalities within Cabarrus County.

There are several advantages and disadvantages (Figure 6) to RTAs that should be thoroughly examined before one is established. While operating and funding efficiencies can be recognized to provide more streamlined and coordinated services, RTAs can also lead to selective distribution of funding to preferred services or those services perceived as more of a benefit to the system by Board members or elected officials, thus cutting funding to other services that may serve vital needs within the community.



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In the absence of a regional authority there are several other options to provide coordinated services, including joint powers agreements, inter-jurisdictional agreements or joint funding agreements among municipalities.

Figure 6: Potential Advantages & Disadvantages of a Regional Transportation Authority

Potential Advantages	Potential Disadvantages
<ul style="list-style-type: none"> ▪ <i>Allows one entity to focus solely on public transportation.</i> ▪ <i>Better coordination of services.</i> ▪ <i>Consolidated administrative, planning and service functions, including staffing, maintenance facilities, and contracts.</i> ▪ <i>Establishment of region wide funding sources, where allowed by general statutes, and coordinated pursuit of state and federal sources.</i> ▪ <i>Transit does not have to compete for funding with other city or county programs.</i> ▪ <i>Can create a common identity for all transit and eliminate negative perceptions associated with particular service types (e.g. "the welfare wagon").</i> ▪ <i>Service decisions are typically made from a regional perspective.</i> 	<ul style="list-style-type: none"> ▪ <i>Loss of local control.</i> ▪ <i>Removes authority from existing policy boards and RTA boards are chosen, not elected.</i> ▪ <i>Since different parties are required to contribute to a regional authority's financing program, they are more vulnerable to shifts or delays in funding.</i> ▪ <i>Regional authority may transfer funding to popular service types based on politics or perception instead of operating efficiencies or public need (e.g. reducing funding for bus services to provide rail services).</i> ▪ <i>Regional authority may transfer services from some sectors of the region in favor of others.</i> ▪ <i>Potential for short-term loss of jobs due to consolidated functions.</i> ▪ <i>Loss of ability for unique services to be able to provide specialized services (e.g. demand response business model vs. fixed route business model).</i>

Coordination with CK Rider

The potential exists for CCTS and CK Rider to coordinate services on select corridors within the region that include destinations along a common corridor within the city limits and in the unincorporated areas.

There are areas that are currently served only by CCTS demand response services, however, there is increasing demand for fixed route services in those areas due to growth in number of residences and the recent completion of new communities. The combination of these factors, along with the potential for acquiring Job Access and Reverse Commute (JARC) Funding, have warranted a more detailed examination of service options within the Cabarrus County. Additionally, there may be options for future routes in this area to serve Cabarrus County citizens. Funding is and will likely continue to be an issue for such a service. Even though there is strong potential for JARC funding for such a service, the continued use of JARC as the funding source is



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tenuous due to the application cycle through NCDOT. The willingness of Cabarrus County to contribute to the continued operation of new routes would also be a factor.

Service Recommendations

Opportunities for JARC, New Freedom and 5310 Elderly and Disabled Funding

The results of the workshop and subsequent work have identified common themes that provide direction for CCTS and CK Rider to pursue funding through the human service transportation programs. The organization of these initiatives is divided into two separate efforts: 1) Organization and Marketing Program Priorities; and 2) Capital and Operations Program Priorities.



Each workshop group presented their ideas for new service areas, modifications to existing services and ways to fully coordinate transportation services in the region. The results of the group mapping exercise were used to specifically identify Coordinated Plan recommendations.

While the initiatives listed in this section are in priority order, it is important to understand that available resources, both at the funding program and agency level, will ultimately dictate the order and manner in which these initiatives are implemented. The priority order of these initiatives is intended to represent both the priorities as identified through the public workshop and a strategic approach to creating a more established collection of transit services to provide mobility to various sectors of the population of Cabarrus County. There is a strong likelihood that each of these initiatives will require supplemental funding or staff commitments from resources other than human service transportation programs.

Based on analysis of the human service transportation program, these priorities are eligible for full or partial funding through Elderly and Persons with Disabilities, Job Access and Reverse Commute, or New Freedom.



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Organization and Marketing Program Priorities

Priorities one through three has common ties but may not be able to be funded or accomplished through a single effort or action. They are also based on existing programs and the ability of CCTS and CK Rider to pursue these tasks with existing personnel.

1: Establish a One-Stop Shop and Mobility Management Program

To enhance work already being conducted by CCTS and CK Rider can pursue the formal establishment of a mobility management and coordination program for transit services in the region. The functions of this program would consist of:

- *An information clearinghouse for local transit services and mobility training program.*
- *Creation of a mobility management and coordination program through a formal agreement between Cabarrus County, the City of Concord and Kannapolis;*
- *Utilization of the already established (704) 920-2246 number for transit-related calls;*
- *Training for staff members as well as the addition of software and technology to determine best route and service for individuals needing a ride;*
- *Establishing an online ride-matching service, possibly through www.sharetheridenc.org;*
- *Designing a common web site portal for CCTS and CK Rider information;*
- *Branding and marketing of the one-stop shop phone number and website, possibly as part of Priority 2: Conduct a Marketing & Outreach Study;*
- *Managing incentive programs and guaranteed ride home programs through the one-stop shop;*
- *Potential for distribution and sales of passes for both services; and*
- *Ability to transfer calls to appropriate CCTS or CK Rider operations center.*

The one-stop shop concept would likely require a commitment to staffing and continued development of the clearinghouse and mobility management program beyond the funding reach of human service programs, but future funding could be pursued through other state or federal programs.



2: Conduct a Marketing Analysis and Outreach Program

There were several references during the Coordinated Service Plan workshop on the need to educate the public and elected officials on the existence and benefits of a region's transit system. Beyond this need, CCTS and CK Rider staff has expressed a desire to "brand" the region's transit services as one transportation resource. While the establishment of the one-stop shop is a first step toward achieving this goal, a more robust marketing and outreach effort is necessary to fully achieve the vision as established through the workshop.



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The goal of a consolidated branding effort would, in combination with the one-stop shop, allow CCTS and CK Rider to appear to the public as a unified service even as they continue to function as separate operations. A marketing analysis and outreach program would likely consist of:

- *Identification of target markets for both ridership and information dissemination;*
- *Utilizing existing transit data to design outreach materials for local elected officials, social service agencies and employers to showcase the value of transit to the region;*
- *Establishing a common brand or theme for the region's services;*
- *Designing a common website to access CCTS and CK Rider information;*
- *Developing public service announcements for broadcast on local public access television stations;*
- *Determining the best approaches to market the services;*
- *Developing outreach programs to market services and incentive programs to area employers; and*
- *Designing a common look for transit media, such as press releases, fare cards, advertising and vehicle wraps.*

3: Establish Incentive Programs

While the marketing and outreach efforts will identify the type of programs needed to incentivize transit, the establishment of those programs will likely require a separate effort. With the employment base of Cabarrus County provided primarily by Carolinas Medical Center Northeast, the capacity to incentivize transit ridership rests with both the abilities of the transit agencies to manage programs and the willingness of the employers to allow increased services to their staff.

The first step could be to establish a Guaranteed or Emergency Ride Home Program through which registered riders of the region's transit services would be able to utilize the services of a taxi in the event that an emergency requires them to go home or to the doctor during the course of their work day. There is typically some trepidation by service agencies in the establishment of such a program due to fears of abuse. In reality, these can be low cost programs that provide peace of mind to regular riders. Program abuse can be minimized through the institution of several policies, including: requiring riders to register with the service agencies; limiting the dollar amount available to each person during the calendar year; and potentially requiring request for reimbursement of taxi fares through the service agencies.

Other incentive programs include:

- *First ride free programs;*
- *Reduced rates for monthly passes;*
- *Establishing incentive programs administered by area employers; or*
- *An annual event, such as a "Strive Not to Drive" week or "May in Motion" campaign.*

Capital and Operations Program Priorities

While specific service options are more difficult to identify at this stage within a Coordinated Service Plan, there were several service options identified during the workshop that CCTS and CK Rider may pursue through the human service transportation programs. These priorities may require formal agreements or additional input from partners and stakeholders and other municipalities, to fully implement.



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#1: Pursue Reverse Commute Services to UNCC, Research Campus

CCTS and CK Rider both currently do not serve the campus. As student levels have increased the congestion around the campus has increased to the point that local residents have reported delays in commuting less than five miles to work near the campus.

Through Executive Order 13150¹, signed by President Clinton in April 2000, federal programs exist to help subsidize transit fares for riders that could be used in combination with JARC funding to establish new services. **It is anticipated that a Regional Transit Master Plan could explore the potential to provide these services.**

#2: Expand Geography of Existing Routes Fishertown Service

The Regional Transit Master Plan will identify areas of the City and County that are candidates for expansion of services, both through existing routes and establishment of new routes into the Fishertown areas. Funding may be obtained through these via the human service transportation programs or JARC, particularly if some areas indicate a need for specialized services such as demand response instead of a fixed route service.

These may include outlying areas of the City or corridors with both incorporated and unincorporated areas that may not be fully serviced by CK Rider due to current funding and service policies that limit services to areas within the corporate limits. It could also include expansion of CK Rider services to areas on the fringe of the City where CCTS has a concentration of riders.

#3: Create Express Routes/Vanpools for Cabarrus County communities

There was interest from representatives of other communities within Cabarrus County to establish express services or vanpools to Charlotte and other employment areas in our region. Communities such as Salisbury, Monroe, Statesville, and Lexington may not have the critical mass of riders with common origin and destination points to justify fixed route services; however, an express point-to-point bus or vanpool may serve their commute needs.

Alternative Service Delivery Options

Traditional public transportation service has focused on higher density population centers concentrated along high travel corridors, served by fixed routes with fixed stops on a regular schedule. Though this model works well in many circumstances, most communities operating a traditional transit system are also servicing elderly and disabled citizens with a separate para-transit or "dial-a-ride" service, such as CCTS.

Some communities are exploring alternative means of integrating this binary model into a flexible transit service model. According to a 2004 report by the Transit Cooperative Research Program (TCRP)², more than 50 transit systems of all types and sizes operate flexible transit service

¹ US General Services Administration. *Executive Order 13150: Federal Workforce Transportation*. April 2000. http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentId=16569&contentType=GSA_BASIC&noc=T

² Koffman, David, et al. *Operational Experiences with Flexible Transit Services: A Synthesis of Transit Practice*. Transit Cooperative Research Program Synthesis 53, Transportation Research Board. Washington, DC, 2004: pg. 1. http://onlinepubs.trb.org/Onlinepubs/trcp/trcp_syn_53.pdf



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models, such as deviated fixed route or zone route systems. This report is used as the basis for the CCTS Community Transportation Service Plan examination of the potential for flexible route, or deviated fixed route, services.

Often, a transit system will operate flexible service as a way to combine fixed route service with demand responsive service in order to increase efficiencies and service additional patrons. The TCRP report identified three common circumstances under which flexible transit service is used by many transit agencies:

- To provide service in limited areas considered hard to serve for reasons of demographics, street layout, or community preferences;
- To provide service in low-demand time periods. In cities with ample fixed-route service, flexible operation typically substitutes for fixed-route operation in limited areas. In some cities with more limited fixed-route service, flexible operation replaces the entire fixed-route network at certain times; or
- To provide the entire transit service for a small city, low-density suburban area, or rural area. In these cases, coordination or consolidation with para-transit service is a key feature of the flexible service.

Flexible transit service models include those that use flexible-route segments, route deviation, request stops, demand-responsive connectors, zone routes and point deviation. Of all flexible service models, deviated fixed route systems are the most commonly used, however some transit agencies utilize more than one type of flexible route service. Each service type varies in the degree of flexibility it offers, which can impact choice. The following definitions are given by the TCRP for each service type:

- **Route deviation**—Vehicles operate on a regular schedule along a well-defined path, with or without marked bus stops, and deviate to serve demand-responsive requests within a zone around the path. The width or extent of the zone may be precisely established or flexible.
- **Point deviation**—Vehicles serve demand-responsive requests within a zone and also serve a limited number of stops within the zone without any regular path between the stops.
- **Demand-responsive connector**—Vehicles operate in demand-responsive mode within a zone, with one or more scheduled transfer points that connect with a fixed-route network. A high percentage of ridership consists of trips to or from the transfer points.
- **Request stops**—Vehicles operate in conventional fixed-route, fixed-schedule mode and also serve a limited number of defined stops near the route in response to passenger requests. (Request stops differ from flag stops in not being directly on the route.)
- **Flexible-route segments**—Vehicles operate in conventional fixed-route, fixed-schedule mode, but switch to demand-responsive operation for a limited portion of the route.
- **Zone route**—Vehicles operate in demand-responsive mode along a corridor with established departure and arrival times at one or more end points.

Local Considerations for CCTS and CK Rider. In order to implement a flexible transit service, CCTS and CK Rider, as well as their partners will need to assess current and desired outcomes of the transit system in terms of the area where transit vehicles should operate, boarding and alighting locations, schedule and advanced notice requirements (Figure 26). Each of these factors will contribute to the type of flexible service most appropriate for the community.



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Figure 26: Elements of Flexible and Traditional Service Design

Elements of Service	Service Type		
	Fixed Route	Flexible	Dial-a-Ride or Para-transit
Where vehicles operate	On the defined route	A route plus off-route locations or areas, or a geographic area	A geographic area
Boarding and lighting locations	Fixed or flag stops	Some fixed stops plus other locations	Any safe location in the service area
Schedule	Fixed	Fixed at end points or time points on the route, demand- responsive at other locations	Depends entirely on trips requested
Advance notice requirements	Not required	Required at some locations	Always required

Source: TCRP Synthesis 53 Report, 2004.

Deviated fixed route service is one flexible transit service model that could work well for Concord, as it falls in between the conventional fixed route, fixed schedule model and demand-response model (e.g. dial-a-ride or para-transit service). Vehicles would operate on a





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regular schedule along a defined path, but deviate on occasion to serve demand-responsive requests within a zone around/near that path.

In Cabarrus County, a deviated route system could be used to expand CK Rider or CCTS service into additional areas identified by both transit service providers and Concord or Cabarrus County residents as current gaps in the system. Similarly, flexible route segments could work well for certain future routes in Concord and Kannapolis, such as in areas with low density around a higher use transit corridor.

Once a flexible transit service model is chosen, the transit providers and their partners will need to establish policies on matters such as distance or frequency of route deviation, advanced notice requirements for passengers, boarding and alighting locations, and other common considerations such as:

- Determination of the amount of time allocated for demand responsive operation in relation to fixed route service (e.g. deviation occurrences per hour);
- Importance of defining how far a route could deviate (e.g. how many miles or within what set radius will a bus deviate from the fixed transit route);
- Potential fare surcharges for off-route service and/or fixed route fare incentives for para-transit riders;
- Level of coordination with para-transit and regional service provider(s);
- Special driver and dispatcher training for flexible service operation, especially regarding differences in passenger communication and level of independent decision-making involved;
- Amount of advance notice can vary for pick-ups and drop-offs, as will use of advanced technology;
- Land-use, densities and geographic circumstances in which flexible transit service will be most appropriate, best used, and most efficient;
- Types of vehicles to be used in flexible service operation;

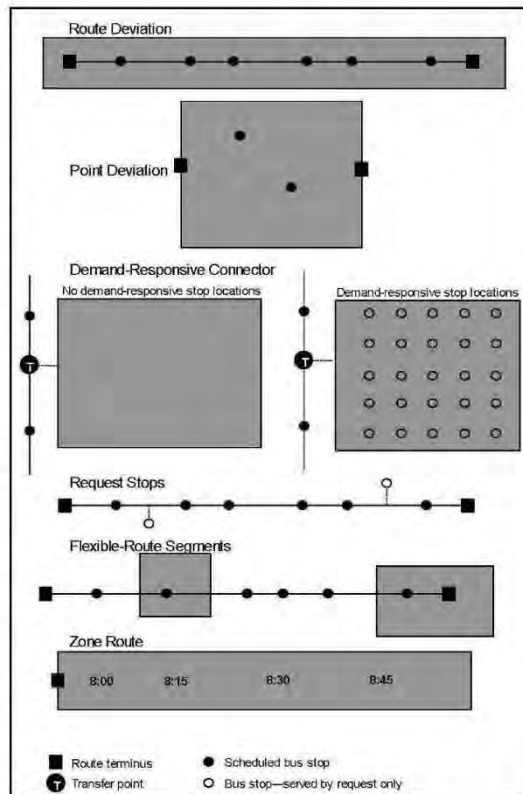


Figure 27: Flexible Route Service Types (TCRP Synthesis 53 Report)



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- *Maximum thresholds for flexible operation (i.e. what are maximum ridership thresholds and/or at what point will flexible transit service become impractical for a given route or service area).*

Cost Comparisons for Flexible and Conventional (Fixed Route) Transit Services. Transit operators typically choose a flexible service model to provide cost-effective coverage to spread-out, low-density areas, reduce or eliminate the expense of a separate para-transit service, and/or serve low-demand time periods. The efficiencies gained in all of these actions result in a transit operation that can be leaner and more cost-effective. There is, of course, a balance between efficiency and flexibility in providing such a service, and the most cost-effective strategy will need to be assessed on a case-by-case basis for each potential operation. Cost savings for several integrated transit models are discussed in the TCRP Synthesis 76 report, “Integration of Para-transit and Fixed-Route Transit Services,” which summarizes the cost savings achieved by multiple transit agencies studied for the report. Of the systems studied, cost savings ranged from \$147,000 per year to \$458,000 per year once flexible transit service was implemented to replace an old binary model of separate fixed route and para-transit services.³ Such examples of the efficiencies experienced by other transit agencies and research on best practice approaches for nationwide transit operations seem to indicate that CK Rider and CCTS should consider how to best coordinate and integrate future services to achieve cost-savings and effective route management systems.



Coordination with Other Counties

There is a desire within CCTS management to reach out and work with neighboring counties to identify areas for coordination. The most promising opportunity for CCTS is to work with similar service providers in neighboring counties and cities to consolidate through trips to regional medical facilities in Charlotte, Salisbury, Chapel Hill, Duke and Raleigh.



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Last year CCTS provided approximately 850 trips to regional medical centers outside of the Cabarrus County region. Working with other community transportation services in these counties we could continue to grow our services and coordinate and exchange scheduling information with them. There is the possibility for these services to be combined to lessen the mileage and cost burden on operating a less than full vehicle during these medical trips.



State Funding Sources

The State of North Carolina provides three key funding sources for CCTS: the Elderly & Disabled Transportation Assistance Program (EDTAP), Employment Transitional / Employment Transportation Program (EMPL) and the Rural General Public (RGP) program. These programs are part of the broader Rural Operating Assistance Program (ROAP), which is administered by the Public Transportation Division of NCDOT. Local recipients are county governments, who then distribute funds to designated recipients such as CCTS that must submit grant applications and meet program requirements. ROAP funds are to be used for trips or other services; not for capital or administrative expenses.

All 100 North Carolina counties are eligible to receive a formula-based allocation for EDTAP and Employment Transitional/Employment Transportation. Only those counties providing transportation services to the general public are eligible to receive RGP allocations. Counties have the ability to transfer Employment Transportation Assistance funds, all or in part, to the EDTAP and/or RGP programs provided such funds are not needed to provide employment trips or eligible other services. CCTS FY 2009 funding allocation for these programs is shown in Figure 15.

A matrix of eligible uses for these programs is depicted in Figure 16.

The Elderly and Disabled Transportation Assistance Program (EDTAP) provides operating assistance funds for the transportation of the state's elderly and disabled citizens. This transportation assistance allows these individuals to reside for a longer period in their homes, thereby enhancing their quality of life. Program funds may only be used to purchase additional trips and are not to be used to supplant existing funds used for client transportation. These funds are available at 100% of the program allocation and do not require a local funding match.



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For the purposes of EDTAP, an elderly person is defined as one who has reached the age of 60 or more years. A disabled person is defined as one who has a physical or mental impairment that substantially limits one or more major life activities, an individual who has a record of such impairment, or an individual who is regarded as having such impairment.



CCTS receives state funding through the Rural Operating Assistance Program to transport many of its passengers.

A fare may be charged for eligible EDTAP services. Any fares collected must be used to provide more EDTAP transportation service. EDTAP funds are to be used to provide trips and/or other services for elderly and disabled individuals when other funding sources are not available. Priority should be given to the Section 5311 Community Transportation System providing coordinated transportation services in the county. If the EDTAP funds are sub-allocated to other agencies besides the Community Transportation System, these other agencies are

encouraged to coordinate EDTAP-funded transportation trips with the local Community Transportation System. EDTAP funds may be used as matching funds for 5310, 5311 operating, 5316 and 5317 federally funded transportation programs as appropriate. EDTAP funds cannot be transferred to any other ROAP program.

Figure 15: FY14 CCTS Allocation

Funding Source	FY 14 Allocation
EDTAP	\$70,996
EMPL	\$22,817
RGP	\$45,261
Supplemental EDTAP	\$33,403
Supplemental EMPL	\$0
Supplemental RGP	\$51,469
Total	\$223,946

The Employment Transitional/Employment Transportation (EMPL) program is intended to provide operating assistance for transitional employment and general public employment transportation needs. The funds should be used to support the employment transportation needs of individuals who are not eligible to receive benefits from the Temporary Assistance for Needy Families (TANF) program as well as employment trips for the general public. These funds are also available at 100% of the program allocation and do not require a local funding match.

The rules of the program stipulate priority be given to the employment transportation needs of individuals that are not eligible to receive benefits from the Temporary Assistance for Needy Families (TANF) program or to participants in Workforce Development Programs, but the transportation disadvantage public with employment-related transportation needs can also be served with EMPL funding. Certification of this eligibility is the responsibility of CCTS.

Employment Transportation Assistance funds can only be sub-allocated to the Department of Social Services, Workforce Development Programs or to the Community Transportation System. EMPL funds may be used as matching funds for 5310, 5311 operating, 5316 and 5317 federally funded transportation programs as appropriate.

Formula Employment Transportation Assistance Program funds may be transferred to EDTAP or RGP if the funds are not needed for employment transportation needs within the county.



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Supplemental EMPL funds cannot be transferred to the EMPL Program. The county must ensure that Work First and general public employment transportation needs are carefully and thoroughly assessed prior to transferring any EMPL funds to EDTAP or RGP.

The Rural General Public Program (RGP) operating funds are intended to provide transportation services to individuals who are not human service agency clients. The funds must be utilized in a manner consistent with the respective RGP Service Plan for the county/service area. CCT is required to match the allocated program funding with 10% local funds from fares or other sources, with the state allocation paying for 90% of the program costs. To use RGP funds, the passenger must live in the non-urbanized area of a county and either the origin or destination of the trip must be in the non-urbanized area.

The formula RGP funds must be sub-allocated to the Community Transportation System. RGP funds should be used to provide transportation services to individuals not eligible for transportation services funded by any other means. RGP funds may be used as matching funds for Sections 5310, 5311, 5316 and 5317 federally funded transportation programs for only operating match, as appropriate. RGP funds cannot be transferred to any other ROAP program.

Figure 16: Eligible Trips Purposes for Use of EDTAP & RGP Funding⁴

Trip Purpose	EDTAP	EMPL	RGP
<i>Trip Based Services: Trips may be provided by car/vanpool, taxi, public transit vehicle, private transit vehicle, agency vehicle or mileage reimbursement to a volunteer. The most cost-effective option should be chosen. Public/Private transportation providers shall be reimbursed based on the fully allocated cost per mile, per hour, or per passenger trip. Volunteers can be reimbursed for mileage only. If a human service agency uses an agency vehicle to provide the trip, the agency must include the fully allocated cost of a trip in their reimbursement request including fuel, staff time and benefits, depreciation, vehicle insurance and licensing.</i>			
Personal care, non-emergency medical appointments, pharmacy pickup, shopping, bill paying, public hearings, committee meetings, classes, banking, etc.	Yes	No	Yes
Job fair attendance, job readiness activities or training	Yes	Yes	Yes
Transportation to Workplace (trip must be scheduled by the individual passenger)	Yes	Yes	Yes
Child(ren) of Working Parent transported to Child Care	No	Yes	Yes
Group field trips/tours to community special events	No	No	No

⁴ State of North Carolina. *Elderly and Disabled Transportation Assistance Program (E&DTAP), Rural General Public (RGP), Work First Transitional / Employment Transportation Assistance Program, Rural Operating Assistance Program (ROAP)*. April 2009.



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Overnight trips to out-of-county destinations	No	No	No
Human Service Agency appointments	Yes	No	Yes
<i>Other Services – Includes expenses incurred transporting a passenger to a destination without using a public transit system, private transit or agency vehicle.</i>			
Fuel (gas voucher, gas card, reimbursement to fuel provider)	Yes	Yes	Yes
Maintenance Repairs to personal cars (must own the car).	No	Yes	No
Personal car insurance 1 time payment that can cover needs up to 3 months.	No	Yes	No

MAJOR FINDINGS AND RECOMMENDATIONS

The needs identification step of this planning process made clear that there are many people and organizations willing, able and eager to be involved in creating a better coordinated public transportation-human service transportation system in Cabarrus County and regional partners. The Cabarrus County region is fortunate to have such strong commuting patterns, as well as employment and population growth, which allow the area transit providers to plan and provide effective services to meet the needs of a variety of populations.

In the prioritized listing of identified needs, gaps and barriers the top issue at the workshops was expanding the days, hours and reach of the existing systems as development and employment move beyond the traditional borders of the systems of the Cabarrus County. The desire for Sunday service, both for work and for socialization was frequently expressed as a part of the desire for expanded service.

The next most important need to the participants in the workshops as well as to people who commented outside of the workshops was for information about public transportation services. Other needs, gaps or barriers identified by people who were unaware of existing services that filled those needs further reinforced the need for information. Several who took the time to participate in this process made clear that there are gaps in the current systems of communication with people who have low vision.

The path to a truly coordinated system that fits the needs of most residents will be long, and possibly difficult, but it is an important goal. The diversity of the development patterns and the character of the communities included in the region are great, but the development of this plan is an important first step. Implementation will show the coordination, effectiveness, and need for comprehensive and coordinated public transportation services in the area.



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JARC & New Freedom Grant Recommendations

Attendants at the meeting agreed that CCTS continue its efforts to keep the Cabarrus Links Project in the communities of Harrisburg, Midland, and Mount Pleasant. The group felt CCTS should apply to extend the JARC project and seek additional funding to carry on this project connecting the eastern part of Cabarrus County to Concord and Concord Mills areas. They felt that employment opportunities offered in the Concord Mills area was an important part of the overall plan and wish to see this project expanded.



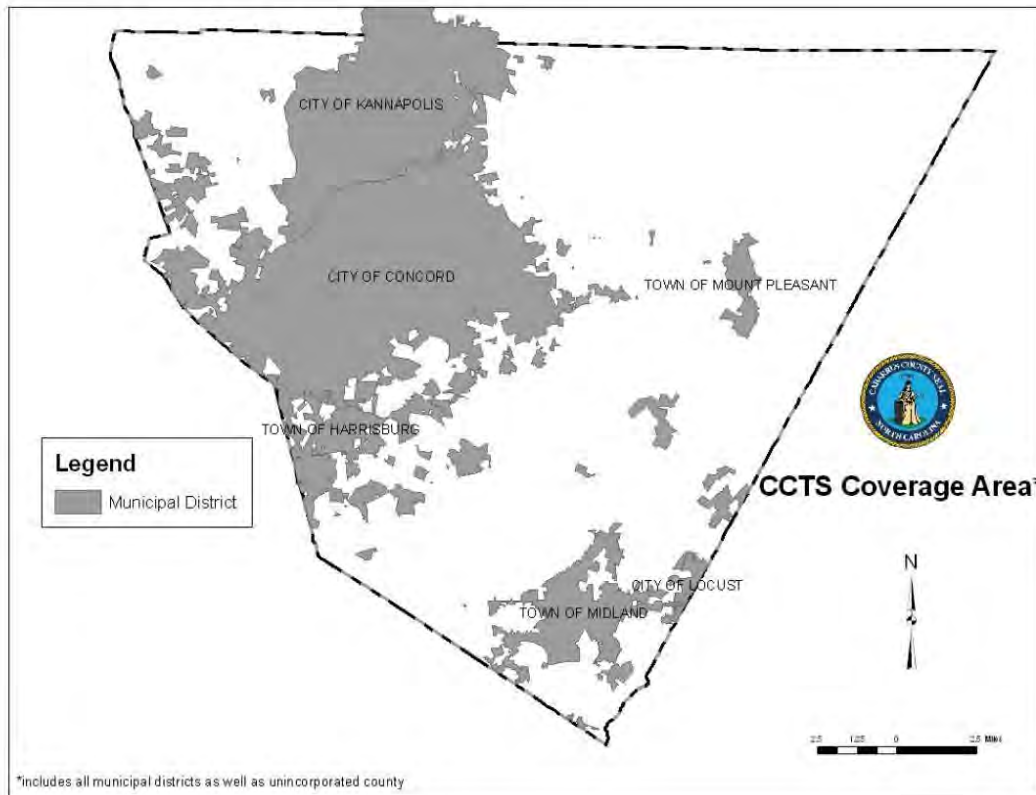
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MEETING SIGN-IN SHEET			
Project:	Coordinated Transportation Plan	Meeting Date:	September 24, 2009
Facilitator:	Randy Bass/Jack Flaherty	Place/Room:	David H. Murdock Core Laboratory Building - Event Room

Name	Signature	Name	Signature
Bob Carruth		Julia Patterson	<i>Julia Patterson</i>
Bobby Smith		Michael Justin	<i>Michael Justin</i>
Cindy Hall		Janet Purser	<i>Janet Purser</i>
Judy Coble	<i>Judy Coble</i>	Larry Belk	<i>Larry Belk</i>
Stacie Burwitz		Vera Andrews	<i>Vera Andrews</i> ✓
Tom Teal		Bob Bushey	<i>Bob Bushey</i>
L.J. Weslowski	<i>L.J. Weslowski</i>	Blondell Joseph	<i>Blondell Joseph</i>
Carol L. Cheatham	<i>Carol L. Cheatham</i>	Steve Cude	<i>Steve Cude</i> ✓
Gary Caton	<i>Gary Caton</i>	Randy Bass	<i>Randy Bass</i> ✓
Gaye McConnell		Terry Joe	<i>Terry Joe</i>
Tara Vogelien	<i>Tara Vogelien</i>	Stacey Stewart	<i>Stacey Stewart</i>
Sheetal Ghelani		Erica Bogan	<i>Sig. on back sheet</i> ✓
Eddie Smith	<i>Eddie Smith</i>	Nancy Boyden	
Jack Flaherty	<i>Jack Flaherty</i>	Mike Downs	<i>Mike Downs</i>
Michelle Smith	<i>Michelle Smith</i>	David Pugh	<i>David Pugh</i>
Tony Harris	<i>Tony Harris</i>	Vicki Proctor	<i>Vicki Proctor</i>
Jodi Ramirez	<i>Jodi Ramirez</i>	Dave Hunter	<i>Dave Hunter</i>
Ronald Bushey	<i>Ronald Bushey</i>	Deborah Carter	<i>Deborah Carter</i>
Trish Baker	<i>Trish Baker</i>	Mike Legg	<i>Mike Legg</i>

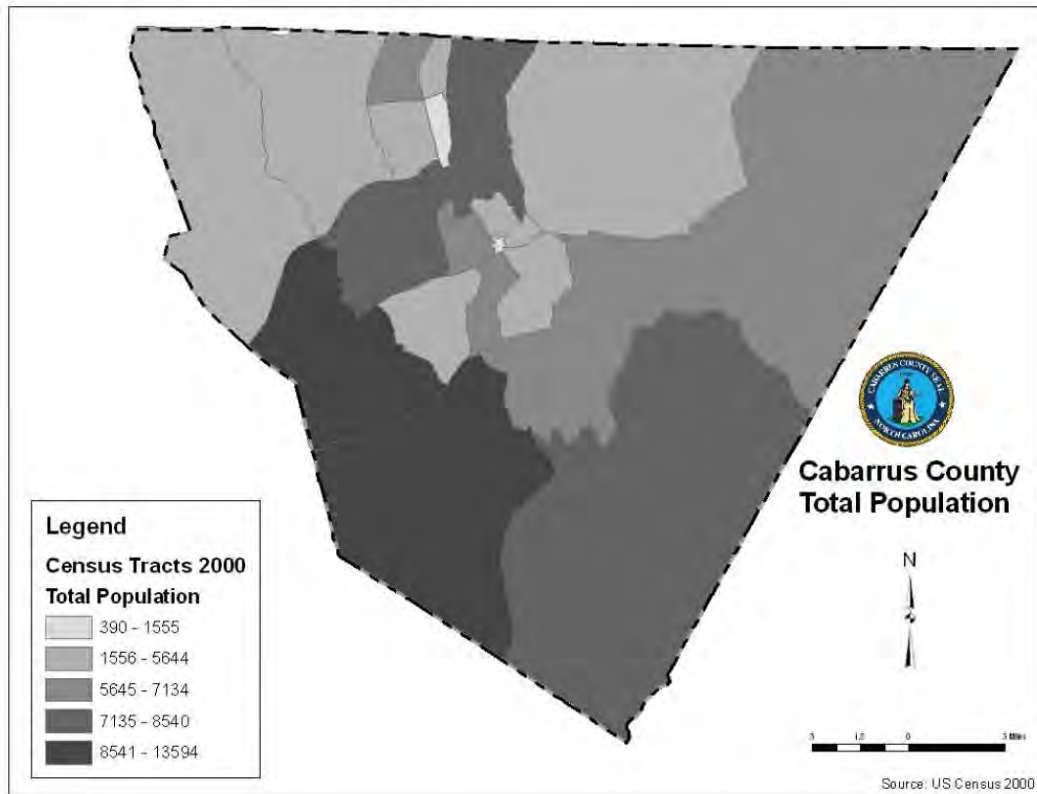


Cabarrus County Coordinated Transportation Plan



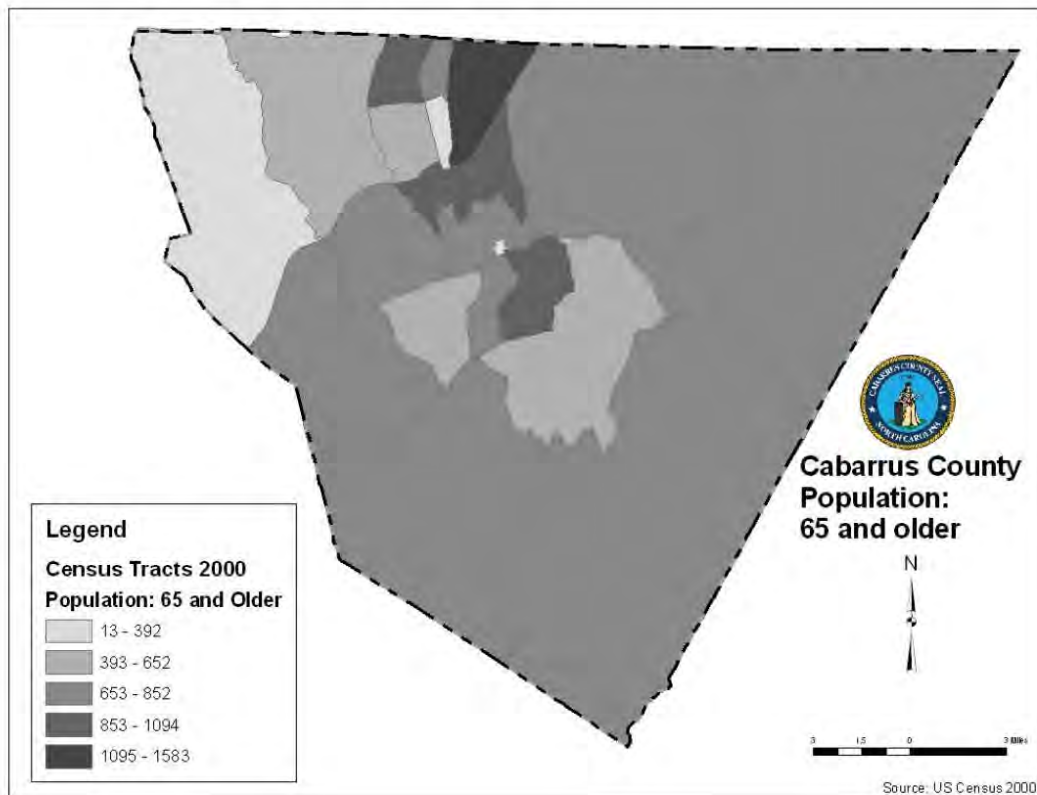


Cabarrus County Coordinated Transportation Plan



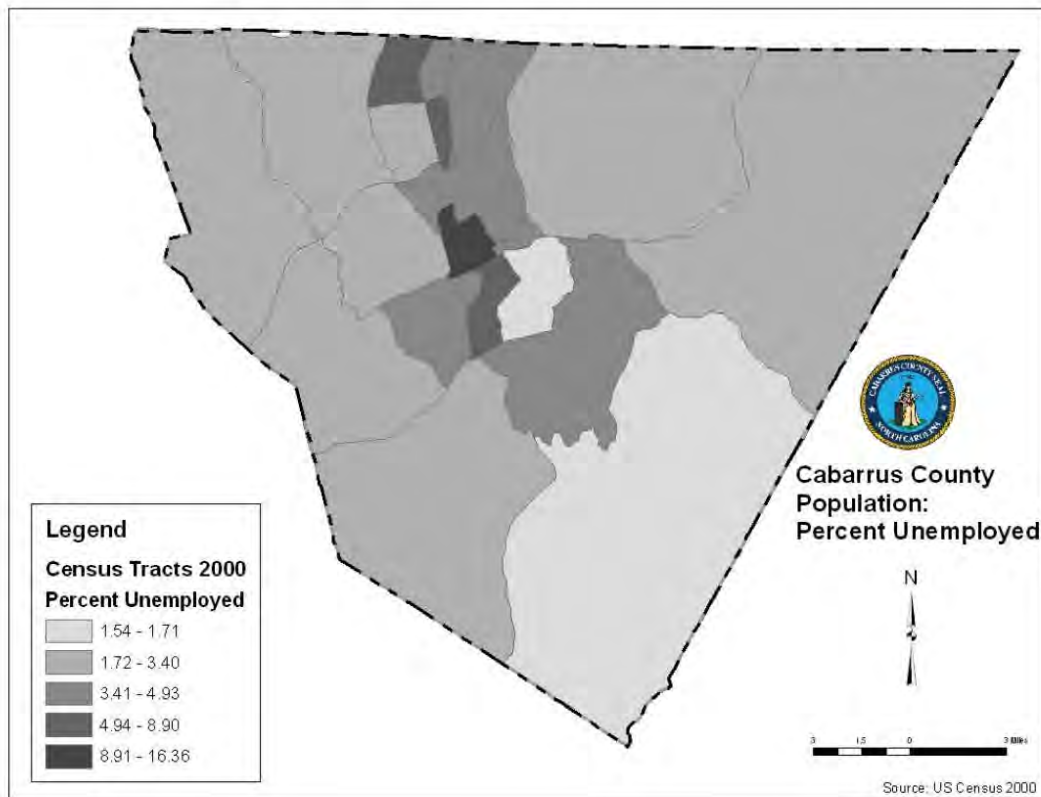


Cabarrus County Coordinated Transportation Plan





Cabarrus County Coordinated Transportation Plan



CABARRUS COUNTY



BOARD OF COMMISSIONERS WORK SESSION

**February 4, 2019
4:00 PM**

AGENDA CATEGORY:

Discussion Items for Action

SUBJECT:

Finance - Cabarrus County Courthouse Reimbursement Resolution

BRIEF SUMMARY:

It is requested that the County advance its own funds to pay certain original expenditures associated with the construction of a new Cabarrus County Courthouse. Approval of the attached resolution will allow the County to pay the original expenditures then reimburse itself for the expenditures with the proceeds of the debt to be incurred by the County for the 2020 Limited Obligation Bonds.

REQUESTED ACTION:

Motion to adopt the reimbursement resolution for the Cabarrus County Courthouse.

EXPECTED LENGTH OF PRESENTATION:

5 Minutes

SUBMITTED BY:

Susan Fearington, Finance Director

BUDGET AMENDMENT REQUIRED:

No

COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:

Approval is recommended.

ATTACHMENTS:

▣ Courthouse Reimbursement Resolution

**EXTRACT FROM MINUTES OF BOARD OF COMMISSIONERS OF
THE COUNTY OF CABARRUS, NORTH CAROLINA**

The Board of Commissioners for the County of Cabarrus, North Carolina, met in regular session in the Commissioners' Meeting Room in the Cabarrus County Governmental Center in Concord, North Carolina, the regular place of meeting, at 6:30 p.m., on February 18, 2019, with Stephen M. Morris, Chairman, presiding. The following Commissioners were:

PRESENT: Chairman Stephen M. Morris; Vice Chairman Diane R. Honeycutt and Commissioners F. Blake Kiger, Elizabeth F. Poole and Lynn W. Shue.

ABSENT: [None.]

ALSO PRESENT: Michael K. Downs, County Manager; Pamela S. Dubois, Senior Deputy County Manager; Susan B. Fearrington, Finance Director; Richard M. Koch, Esq., County Attorney; and Lauren Linker, Clerk to the Board.

* * * * *

Chairman Stephen M. Morris introduced the following resolution, and its title was read:

**RESOLUTION DECLARING OFFICIAL INTENT TO REIMBURSE
EXPENDITURES WITH PROCEEDS OF DEBT PURSUANT TO UNITED STATES
DEPARTMENT OF TREASURY REGULATIONS**

BE IT RESOLVED by the Board of Commissioners of Cabarrus County:

1. The Board hereby finds, determines and declares as follows:

(a) Treasury Regulations Section 1.150-2 (the "Regulations"), promulgated by the United States Department of Treasury on June 18, 1993, prescribes certain specific procedures applicable to certain obligations issued by the County after June 30, 1993, including, without limitation, a requirement that the County timely declare its official intent to reimburse certain expenditures with the proceeds of debt to be issued thereafter by the County.

(b) The County has advanced and/or will advance its own funds to pay certain capital costs (the "Original Expenditures") associated with financing, in whole or in part, (i) the acquisition, construction, installation and equipping of one or more new buildings to be used as new court house facilities for the County, including the acquisition of necessary land and rights-of-way, (ii) various site improvements and (iii) any other improvements related to any of the foregoing (the "Courthouse Project").

(c) The funds heretofore advanced or to be advanced by the County to pay the Original Expenditures are or will be available only on a temporary basis, and do not consist of funds that were otherwise earmarked or intended to be used by the County to permanently finance the Original Expenditures.

(d) As of the date hereof, the County reasonably expects that it will reimburse itself for such Original Expenditures with the proceeds of debt to be incurred by the County, and

the maximum principal amount of debt to be incurred with respect to the Courthouse Project is expected to be \$100 000,000.

(e) All Original Expenditures to be reimbursed by the County were paid no more than 60 days prior to, or will be paid on or after the date of, this declaration of official intent. The County understands that such reimbursement must occur not later than 18 months after the later of (i) the date the Original Expenditure was paid; or (ii) the date the Courthouse Project was placed in service or abandoned, but in no event more than 3 years after the Original Expenditure was paid.

2. This resolution shall take effect immediately.

Commissioner _____ moved to approve the passage of the foregoing resolution and Commissioner _____ seconded the motion, and the resolution was passed by the following vote:

Ayes: Chairman Stephen M. Morris, Vice Chairman Diane R. Honeycutt and Commissioners F. Blake Kiger, Elizabeth F. Poole and Lynn W. Shue.

Nays: [None.]

Not Voting: [None.]

* * * * *

I, Lauren Linker, Clerk to the Board of Commissioners for the County of Cabarrus, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of said Board of Commissioners at a regular meeting held on February 18, 2019, as relates in any way to the passage of the resolutions hereinabove referenced, and that said proceedings are recorded in Minute Book No. [] of the minutes of said Board of Commissioners, beginning at page ___ and ending at page ___.

I DO HEREBY FURTHER CERTIFY that the schedule of regular meetings of said Board of Commissioners has been on file in my office pursuant to North Carolina General Statutes §143-318.12 as of a date not less than seven (7) days before said meeting.

WITNESS my hand and the corporate seal of said County, this 18th day of February, 2019.

Clerk to the Board of Commissioners
for the County of Cabarrus, North Carolina

[SEAL]

CABARRUS COUNTY



BOARD OF COMMISSIONERS WORK SESSION

**February 4, 2019
4:00 PM**

AGENDA CATEGORY:

Discussion Items for Action

SUBJECT:

Library - Copier Fees

BRIEF SUMMARY:

In December 2018, the County received new copiers at all facilities. All branches of the library system received new machines that will allow patrons to make copies for materials and resources from our branches. Based on the new contract, all cost associated with making copies were taken in consideration and a new fee has been established at \$.25 cents per copy (one-sided with color option). The old fee that was established in September 2006 was \$.15 for a single sided black and white copy, no color option was available.

REQUESTED ACTION:

Motion to approve the increase per the one sided copy fee to \$.25 per copy at all Library branches.

EXPECTED LENGTH OF PRESENTATION:

5 Minutes

SUBMITTED BY:

Emery Ortiz, Library Director
Pamela Dubois, Senior Deputy County Manager

BUDGET AMENDMENT REQUIRED:

No

COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:

ATTACHMENTS:

- ▣ Copier Fees Sept 2006

Fee Schedule for Photocopies/Printing Charges within Departments of the County
(excludes Register of Deeds Department which sets their fees based on GS 161-10 (a))

Black and White Copies

Single copy	1 cent
Duplexed copy (2 sided)	2 cents

Color Copies

Single copy	20 cents
Duplexed copy (2 sided)	40 cents

Above charges begin after 10 copies are made by an individual. The first 9 copies are waived, free of charge.

Fee Schedule for Coin-Operated Copiers at Libraries

Black and White Copies

Single copy	15 cents
Duplexed copy (2 sided)	30 cents

Adopted by BOC 9/25/2006

CABARRUS COUNTY



BOARD OF COMMISSIONERS WORK SESSION

**February 4, 2019
4:00 PM**

AGENDA CATEGORY:

Discussion Items for Action

SUBJECT:

Tax Administration - Advertisement of 2018 Delinquent Taxes

BRIEF SUMMARY:

NC General Statute 105-369 requires counties to report the amount of unpaid taxes for the current year, 2018, that are liens on real property, less bankruptcies and Property Tax Commission (PTC) Appeals; and to set the advertisement date.

2018 REAL ESTATE \$8,280,326.16

Less: Bankruptcy \$75,468.04

PTC Appeal \$0.00

TOTAL (January 28, 2019) \$8,204,858.12

Requested Date of Advertisement of Tax Liens: March 24, 2019

REQUESTED ACTION:

Motion to approve the report for the 2018 outstanding tax balances that are a lien on real property and to order the Tax Administrator to advertise these liens in the Independent Tribune on March 24, 2019.

EXPECTED LENGTH OF PRESENTATION:

1 Minute

SUBMITTED BY:

M. David Thrift, Tax Administrator

BUDGET AMENDMENT REQUIRED:

No

COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:

ATTACHMENTS:

- ▣ Order to Advertise



ORDER OF THE BOARD OF COUNTY COMMISSIONERS
IN ACCORDANCE WITH N.C.G.S. 105-369

State of North Carolina
County of Cabarrus

To: M. David Thrift, Tax Administrator of Cabarrus County

You are hereby authorized, empowered, and commanded to advertise tax liens on real property for failure to pay 2018 property taxes. You shall advertise said liens by posting a notice of liens at the county courthouse and by publishing each lien at least one time in a newspaper having general circulation in the taxing unit. Advertisement of liens shall be made on Sunday March 24, 2019.

This order shall be a full and sufficient authority to direct, require, and enable you to advertise said tax liens in accordance with North Carolina General Statute 105-369.

Witness my hand and official seal, this 18th day of February, 2019.

Stephen M. Morris, Chairman
Cabarrus County Board of Commissioners

Attest:

Lauren Linker
Clerk to the Board of County Commissioners

CABARRUS COUNTY



BOARD OF COMMISSIONERS WORK SESSION

**February 4, 2019
4:00 PM**

AGENDA CATEGORY:

Approval of Regular Meeting Agenda

SUBJECT:

BOC - Approval of Regular Meeting Agenda

BRIEF SUMMARY:

The proposed agenda for the February 18, 2019 regular Board of Commissioners' meeting is attached.

REQUESTED ACTION:

Motion to approve the agenda for the February 18, 2019 regular meeting; including the required public hearing.

EXPECTED LENGTH OF PRESENTATION:

1 Minute

SUBMITTED BY:

Lauren Linker, Clerk to the Board

BUDGET AMENDMENT REQUIRED:

No

COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:

ATTACHMENTS:

- Proposed February 18, 2019 Agenda

CABARRUS COUNTY



BOARD OF COMMISSIONERS REGULAR MEETING

**February 18, 2019
6:30 PM**

MISSION STATEMENT

THROUGH VISIONARY LEADERSHIP AND GOOD STEWARDSHIP, WE WILL ADMINISTER STATE REQUIREMENTS, ENSURE PUBLIC SAFETY, DETERMINE COUNTY NEEDS, AND PROVIDE SERVICES THAT CONTINUALLY ENHANCE QUALITY OF LIFE

CALL TO ORDER BY THE CHAIRMAN

PRESENTATION OF COLORS

Girl Scout Troop 2377, Center United Methodist Church

INVOCATION

Pastor Bob Page, Emmanuel Baptist Church

A. APPROVAL OR CORRECTIONS OF MINUTES

1. Approval or Correction of Meeting Minutes

B. APPROVAL OF THE AGENDA

C. RECOGNITIONS AND PRESENTATIONS

1. Active Living and Parks - Eagle Scout Service Project

D. INFORMAL PUBLIC COMMENTS

E. OLD BUSINESS

F. CONSENT AGENDA

(Items listed under consent are generally of a routine nature. The Board may take action to approve/disapprove all items in a single vote. Any item may be withheld from a general action, to be discussed and voted upon separately at the discretion of the Board.)

1. BOC - Rules of Procedures
2. County Manager - Proposed Back Creek Greenway
3. County Manager - Raw Water Line Easement at Coddle Creek

4. Finance - Cabarrus County Courthouse Reimbursement Resolution
5. Infrastructure and Asset Management - Design Contract and Proposed Project Schedule
6. Library - Copier Fees
7. Sheriff - Service Award of Duty Weapon
8. Tax Administration - Advertisement of 2018 Delinquent Taxes
9. Tax Administration - Refund and Release Reports - January 2019

G. NEW BUSINESS

1. DHS - Transportation 5310 Elderly and Handicapped Grant

H. APPOINTMENTS TO BOARDS AND COMMITTEES

1. Appointments - Active Living and Parks Commission
2. Appointments - Adult Care Home Community Advisory Committee
3. Appointments - Firemen's Relief Fund Trustees
4. Appointment and Removals - Home and Community Care Block Grant Advisory Committee

I. REPORTS

1. Active Living and Parks Department - FY 17-18 Annual Report
2. BOC - Receive Updates From Commission Members who Serve as Liaisons to Municipalities or on Various Boards/Committees
3. BOC - Request for Applications for County Boards/Committees
4. Cabarrus County Tourism Authority FY18 Year End Financials
5. County Manager - Monthly Building Activity Reports
6. County Manager - Monthly New Development Report
7. EDC - January 2019 Monthly Summary Report
8. Finance - Monthly Financial Update

J. GENERAL COMMENTS BY BOARD MEMBERS

K. WATER AND SEWER DISTRICT OF CABARRUS COUNTY

L. CLOSED SESSION

M. ADJOURN

Scheduled Meetings

February 22	Board Retreat	4:00 p.m.	Multipurpose Room
February 23	Board Retreat	8:00 a.m.	Multipurpose Room
March 11	Work Session	4:00 p.m.	Multipurpose Room
March 18	Regular Meeting	6:30 p.m.	BOC Meeting Room
April 1	Work Session	4:00 p.m.	Multipurpose Room
April 15	Regular Meeting	6:30 p.m.	BOC Meeting Room

Mission: Through visionary leadership and good stewardship, we will administer state requirements, ensure public safety, determine county needs, and provide services that continually enhance quality of life.

Vision: Our vision for Cabarrus is a county where our children learn, our citizens participate, our dreams matter, our families and neighbors thrive, and our community prospers.

**Cabarrus County Television Broadcast Schedule
Cabarrus County Board of Commissioners' Meetings**

The most recent Commissioners' meeting is broadcast at the following days and times. Agenda work sessions begin airing after the 1st Monday of the month and are broadcast for two weeks up until the regular meeting. Then the regular meeting begins airing live the 3rd Monday of each month and is broadcast up until the next agenda work session.

Sunday - Saturday	1:00 P.M.
Sunday - Tuesday	6:30 P.M.
Thursday & Friday	6:30 P.M.

In accordance with ADA regulations, anyone who needs an accommodation to participate in the meeting should notify the ADA Coordinator at 704-920-2100 at least forty-eight (48) hours prior to the meeting.

CABARRUS COUNTY



BOARD OF COMMISSIONERS WORK SESSION

**February 4, 2019
4:00 PM**

AGENDA CATEGORY:

Closed Session

SUBJECT:

Closed Session - Pending Litigation and Economic Development

BRIEF SUMMARY:

A closed session is needed to discuss matters related to pending litigation and economic development as authorized by NCGS 143-318.11(a)(3) and (4).

REQUESTED ACTION:

Motion to go into closed session to discuss matters related to pending litigation and economic development as authorized by NCGS 143-318.11(a)(3) and (4).

EXPECTED LENGTH OF PRESENTATION:

30 Minutes

SUBMITTED BY:

Mike Downs, County Manager

BUDGET AMENDMENT REQUIRED:

No

COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:
