

**SUBRECIPIENT AGREEMENT TO PROVIDE SECTION 5339
FTA GRANT FUNDS TO RAZORBACK TRANSIT (UNIVERSITY OF ARKANSAS)**

THIS AGREEMENT is made and entered into on February 12, 2015, by and between the Northwest Arkansas Regional Planning Commission, a Regional Planning Commission established by cities and counties pursuant to Arkansas law, hereinafter referred to as "NWARPC", and the Board of Trustees, University of Arkansas acting for and on behalf of the University of Arkansas and Razorback Transit, a public Transportation provider established under Arkansas law, with services provided in the region, hereinafter referred to as "RT."

WITNESS

WHEREAS, under Section 20029 of the Moving Ahead for Progress in the 21st Century Act or "MAP-21" (Public Law 112-141), RT is eligible to receive a grant under 49 U.S.C. Section 5339 ("Section 5339") from the U.S. Department of Transportation, Federal Transit Administration ("FTA"), to fund a Transportation project(s); and

WHEREAS, NWARPC is the Designated Recipient in the Fayetteville-Springdale-Rogers, AR-MO Urbanized Area (UZA) for FTA grant program purposes, and FTA requires NWARPC to administer all of the Section 5339 grants for this UZA; and

WHEREAS, NWARPC desires to approve an allocation to RT of Section 5339 grant funds for an eligible Transportation project(s); and

WHEREAS, NWARPC is responsible, as the FTA grantee, for ensuring that FTA's Section 5339 grant requirements will be met by RT.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. PURPOSE AND SCOPE

The purpose of this Agreement is to set out the terms and conditions applicable to NWARPC's transfer of FTA Section 5339 grant funds to RT, as the subgrantee, for the development of a Transportation project(s) as described in RT's Section 5339 grant application(s) submitted by NWARPC to FTA.

2. GRANT PASS THROUGH REQUIREMENTS

- A. Section 5339 Grant – Each federal fiscal year, FTA may award a Section 5339 grant to NWARPC, which may include funding for RT. For each grant, RT must execute an Allocation Agreement in the form provided as Exhibit A, which evidences RT's agreement to comply with all the terms and conditions set out in that Section 5339 grant agreement, before NWARPC will be obligated to make payment to RT. After NWARPC executes each Section 5339 grant agreement with FTA, NWARPC will provide RT with a copy and RT must comply with all terms and conditions set out in each Section 5339 grant agreement. The Section 5339 grant agreement will set out RT's

allocation of Section 5339 funds and will include FTA's Master Grant Agreement. A copy of FTA's current Master Grant Agreement is attached, by reference, as Exhibit B, and RT acknowledges that this Master Agreement may be amended by FTA in the future. In consideration for NWARPC's payment to RT of the Section 5339 grant funds, RT will prosecute the Transportation project(s) described in RT's Section 5339 grant application(s), which is a part of the Section 5339 grant.

- B. Grant Obligations – Except for the FTA grant drawdown provisions, RT must perform all of NWARPC's obligations under the Section 5339 grant applicable to RT's Transportation project(s), including, without limitation, restrictions on the source of the local share and accounting, records retention and audit provisions. NWARPC may enforce against RT any right that FTA may enforce against NWARPC pertaining to the provision of FTA funds to RT under each Section 5339 grant.
- C. Federal Requirements – In addition to the obligations set out in each Section 5339 grant, RT also must comply with any and all laws, statutes, rules, regulations, circulars, directives, and requirements of the federal and state governments that relate to or in any manner affect the performance of public transit services under this Agreement. These regulations, circulars, and directives include, without limitation, the following: FTA Circular No. 4220.1F, "Third Party Contracting Guidelines"; 49 CFR Part 18, 'Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;’ 2 C.F.R. Part 225 "Cost Principles for State, Local, and Indian Tribal Governments," and any amendments or revisions to the foregoing.
- D. Progress and Financial Reports – RT must prepare a narrative Progress Report and a Financial Status Report, as may be required by FTA as a condition of payment, describing the progress of the work and expenditure for the Transportation project(s) funded under each Section 5339 grant during each of the Reporting periods required for FTA capital grants. Such Reports shall be furnished to NWARPC prior to NWARPC's approval and payment of RT's invoices. NWARPC shall be responsible for submitting such reports to FTA.
- E. Fulfillment of Grant Obligations – NWARPC shall notify RT of all NWARPC obligations applicable to RT under each Section 5339 grant. In the event of any failure by RT to properly perform obligations under each Section 5339 grant, NWARPC will promptly notify RT of any failure to perform and permit RT a reasonable opportunity to cure the failure. RT, will be responsible for its own actions or omissions with respect to any Section 5339 grant, including, without limitation, any demand for return of all or a portion of the FTA Grant funds furnished to RT. If FTA requires any change to a Section 5339 grant agreement after execution by NWARPC and FTA, the parties will amend this Agreement as need to comply with that change(s).
- F. FFATA – RT must comply with the requirements of the Federal Funding Accountability and Transparency Act (FFATA), including U.S. OMB guidance, "Reporting Subaward and Executive Compensation Information," 2 C.F.R.

Part 170, [75 Fed. Reg. 55670-55671, September 14, 2010]. RT's compliance must include the Reporting, record retention, and access requirements set forth in Exhibit C, attached and incorporated by this reference.

3. TERM

This Agreement is effective as of the date first hereinabove appearing and will continue in full force and effect until the project is completed.

4. TOTAL CONSIDERATION AND PAYMENT

- A. Reimbursement of RT's expenses for the Transportation project(s) funded under Section 5339 grant will be subject to the cost principles set forth in the 2 C.F.R. Part 225 "Cost Principles for State, Local, and Indian Tribal Governments," as well as the applicable provisions of the Section 5339 grant. NWARPC will reimburse RT for its expenditures that RT claims are allowable under each Section 5339 grant in a total amount not to exceed RT's federal share of that Section 5339 grant.
- B. Upon receipt of RT's properly documented invoice and the required Progress and Financial Status Reports, NWARPC will draw down Section 5339 grant funds and pay RT the applicable federal share of the invoice within 30 days from the date of receipt. RT's invoice must include, at a minimum, evidence and/or a statement that RT has incurred the costs set out in its invoice and has paid its local share contribution. NWARPC reserves the right to require RT to submit payroll records and/or invoices from RT's contractor to verify that RT has incurred the costs set out in its invoice and that the amount of the invoice does not exceed the applicable federal share of RT's allocation of Section 5339 grant funds under the applicable Section 5339 grant. RT may not invoice NWARPC more frequently than once per calendar quarter.
- C. If NWARPC disputes any items on an invoice for a reasonable cause, NWARPC may deduct that disputed item from the payment, but may not delay payment for the undisputed portions. The amounts and reasons for such deductions will be documented to RT. Unless otherwise agreed, payment against invoice must be delivered by first class mail through the facilities of the U.S. Post Office, postage prepaid, addressed to the applicable party in the manner set forth in Article 8 below.

5. MAINTENANCE OF RECORDS/AUDITS

- A. RT must maintain books, records, documents, and other evidence directly pertinent to work under the Agreement in accordance with generally accepted accounting principles and practices. RT must also maintain, for a period of three years from the date of each Section 5339 grant close-out, the financial information and data used by RT in the preparation or support of the proposed or actual costs submitted for reimbursement under this Agreement. RT must permit NWARPC, FTA, the U.S. DOT Secretary and the U.S. Comptroller General, or their duly authorized representative, to inspect all work, materials, payrolls, and other data and records and to conduct

performance and/or financial audits of RT books, records and accounts pertaining to the Section 5339 grant expenditures.

- B. In addition, RT must meet the audit requirements of the "Single Audit Act Amendments of 1996," 31 U.S.C. Subsections 7501 et seq., in accordance with OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organization," and OMB A-133 Compliance Supplement provisions for the Department of Transportation, April 1999, and any further revision or supplement thereto. Upon NWARPC's request, RT must submit a copy of its audit, completed in accordance with the above-described requirements, within 30 days after completion of the audit, by no later than one year after the end of the audit period.

6. THIRD PARTY OBLIGATIONS

RT is solely liable to third parties with whom it enters into contracts to effectuate the purposes of each Section 5339 grant. RT must pay such parties directly for all amounts due under said arrangements.

7. LIABILITY

Pursuant to Article 12, Subsection 12 of the Arkansas Constitution, RT may not enter into a covenant or agreement to hold a part harmless or to indemnify a party from prospective damages. The parties are responsible for their own negligent conduct and that of their respective officers, employees, agents and designated representatives acting within the official scope of their position.

8. Governing Law; Disputes

The laws of the State of Arkansas govern this Agreement, without regard to its choice of law principles. Any legal action or proceeding arising out of or relating to this Agreement must be instituted exclusively within the State of Arkansas and in no other jurisdiction.

9. Immunity

RT is an instrumentality of the State of Arkansas and is entitled to sovereign immunity. The parties agree that all claims, demands or actions for loss, expense, damage, liability or other relief, either at law or in equity, for actual or alleged personal injuries or property damage arising out of or related to this Agreement by RT or its officers, employees, agents or designated representatives acting within the official scope of their position, must be brought before the Claims Commission of the State of Arkansas. With respect to such claims, demands or actions, RT agrees that; (a) it will cooperate with the NWARPC in the defense of any claim, demand or action brought against the NWARPC seeking the foregoing loss, expense, damage, liability or other relief; (b) it will in good faith cooperate with the NWARPC should the NWARPC present any claim, demand or action of the foregoing nature against the University to the Claims Commission of the State of Arkansas; (c) it will not take any action to frustrate or delay the prompt hearing on claims of the foregoing nature by the said Claims Commission and will make reasonable efforts to expedite said hearing. The obligations of the paragraph shall survive the expiration or termination

of the Agreement. Nothing in the Agreement between the NWARPC and RT shall be construed as a waiver of any immunities available to RT, its officers, agents and employees, or of RT's right to assert in good faith all claims and defenses available to it in any proceeding.

10. NOTICES

All notices and other communications under this Agreement must be in writing and will be deemed to have been duly given (i) on the date of delivery, if delivered personally to the party to whom notice is given, or if made by telecopy directed to the party to whom notice is to be given at the telecopy number listed below, or (ii) at the earlier of actual receipt or the second business day following deposit in the United States mail, postage prepaid. Notices and other communications must be directed to the parties at the addresses shown below. A party may change its person designated to receive notice, its telecopy number, or its address from time to time by giving notice to the other party in accordance with the procedures set forth in this Article.

NWARPC: Northwest Arkansas Regional Planning Commission
Attn: Executive Director
1311 Clayton Street
Springdale, Arkansas 72762
Phone: 479-751-7125
Fax: 479-751-7150

RT: Razorback Transit (University of Arkansas)
Attn: Director, Transit & Parking
ADSB Room 131 - 155 S. Razorback Road
Fayetteville, Arkansas 72701
Phone: 479-575-3304

11. INDEPENDENT CONTRACTOR

NWARPC's responsibility for payment is limited to reimbursement of the federal share of the Section 5339 grant; in particular, NWARPC is not responsible for providing workers' compensation insurance or any other protective insurance coverage based upon the relationship of employer and employee. RT will act as an independent contractor. In accordance with that relationship, RT assumes all responsibility for federal and state income tax withholding, FICA, and any other deduction from income that RT is properly required to make as an independent contractor. RT assumes all responsibility for payment of wages to its employees and for federal and state income tax withholding.

12. NONDISCRIMINATION

In accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. Subsection 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. Subsection 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. Subsection 12132, federal transit law, 49 U.S.C. Subsection 5332,

and implementing regulations; RT will not discriminate or permit discrimination against any employee, applicant for employment, or contractor hired, or any passenger provided transit service because of race, color, religion, national origin, ancestry, sex, age, or disability.

13. LABOR PROVISIONS

Pursuant to U.S. Department of Labor's September 3, 2014 conditional certification requirements associated with the Section 5339 grant, consisting of the certification letter and attachment entitled "*Language for Incorporation into the Contract of Assistance*," which attached hereto and made a part hereof as Exhibit D, RT agrees that it shall comply with this letter and all terms and conditions of the protective agreements or arrangements referenced and specified in said Exhibit D.

14. TERMINATION

Either party may terminate this Agreement at any time upon 90 days' prior written notice. Within 30 days of the date of the notice of termination, RT will submit an invoice to NWARPC for all expenses incurred to the effective date of termination for which RT has not been previously reimbursed. NWARPC will pay the invoice in accordance with the provisions of Article 4, above. After payment of any amount owed to RT, NWARPC will have no further obligation to RT under this Agreement.

15. RELATIONSHIP BETWEEN THE PARTIES

Nothing in this Agreement is intended to create, and nothing herein will be considered as creating, any partnership, joint venture, or agency relationship between NWARPC and RT.

16. SUCCESSORS AND ASSIGNS

This Agreement is binding upon and the benefits and obligations inures to the successors of the parties hereto. This Agreement may not be assigned by either party. The references herein to the Federal Transit Administration or FTA, includes any successor agency or department of the United States Government.

17. MODIFICATION

No waiver, alteration, modification, or termination of this Agreement is valid unless made in writing and signed by the authorized parties hereof.

18. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, but all of which together will constitute but one and the same instrument.

19. CAPTIONS

The headings or captions to the Articles of this Agreement are not a part of the Agreement and have no effect upon the construction or interpretation of any part thereof.

20. SEVERABILITY

In any term, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, the remainder of the Agreement will remain in effect.

21. NONWAIVER

Waiver of any breach or default hereunder will not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this Agreement.

22. GOVERNING LAW

The interpretation and enforcement of the Agreement is governed by the laws of the State of Arkansas, the state in which the Agreement is signed. Any legal action or proceeding arising out of or relating to this Agreement must be conducted exclusively within the State of Arkansas and in no other jurisdiction. Notwithstanding the foregoing, nothing in this Agreement shall be deemed or construed as a waiver of any immunities to suit legally available to RT.

23. AUTHORITY

Each of the signatories to this Agreement represent that he or she is authorized to sign the Agreement on behalf of such party and that all approvals, resolutions and consents which must be obtained to bind such party have been obtained, and that no further approvals, acts or consents are required to bind such party to this Agreement.

24. AMBIGUITIES

The parties have each carefully reviewed this Agreement and have agreed to each term of this Agreement. No ambiguity will be presumed to be construed against either party.

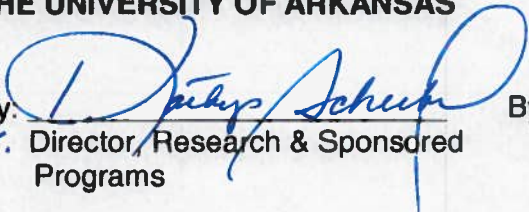
25. INTEGRATION

This Agreement embodies the entire Agreement of the parties in relation to the scope of services herein described, and no other agreement or understanding, verbal or otherwise, exists between the parties.

IN WITNESS WHEREOF, the parties entered into this Agreement on the day and year first hereinabove appearing.

BOARD OF TRUSTEES OF THE UNIVERSITY OF ARKANSAS, ACTING FOR AND ON BEHALF OF THE UNIVERSITY OF ARKANSAS

NORTHWEST ARKANSAS REGIONAL PLANNING COMMISSION

By: 
Asst. Director, Research & Sponsored Programs

By: 
Executive Director

EXHIBIT A

**ALLOCATION TO RAZORBACK TRANSIT (UNIVERSITY OF ARKANSAS)
FOR FEDERAL FISCAL YEARS 2013 AND 2014
FTA SECTION 5339 GRANT FUNDS**

Pursuant to Article 2 of the Agreement to Provide Section 5339 FTA Grant Funds to the Razorback Transit (RT) dated 2/12/15, (the "Subrecipient Agreement") authorizing RT to be a subgrantee for federal transit funds under Section 20029 of the Moving Ahead for Progress in the 21st Century Act or "MAP-21" (Public Law 112-141), RT is eligible to receive a grant under 49 U.S.C. Section 5339 ("Section 5339") from the U.S. Department of Transportation, Federal Transit Administration ("FTA"), as amended, the parties agree as follows:

- A. NWARPC will allocate to RT Section 5339 funds from FY 2013 and FY 2014 in the total amount of \$238,446 for Grant AR-34-0006. The term "FY" refers to the Federal fiscal year ending September 30th of each year.
- B. RT must comply with all the terms and conditions set out in FTA Grant AR-34-0006, along with FTA's FY2014 Certifications and Assurances, both of which are incorporated herein by reference. In addition, RT must comply with the terms and conditions set out in the letter and its attachment from the U.S. Department of Labor dated September 3, 2014, which is attached as Exhibit D to Subrecipient Agreement.
- C. RT must comply with the requirements of the Federal Funding Accountability and Transparency Act (FFATA), including U.S. OMB guidance, "Reporting Subaward and Executive Compensation Information," 2 C.F.R. Part 170, [75 Fed. Reg. 55670-55671, September 14, 2010]. RT's compliance must include the reporting, record retention, and access requirements set forth by FTA.
- D. NWARPC's allocation of Section 5339 funds in future fiscal years is subject to the approval of the NWARPC Board of Directors and FTA.
- E. NWARPC must monitor RT's compliance with FTA requirements. RT must provide NWARPC with requested documentation and respond to questions as NWARPC deems necessary to fulfill its monitoring responsibility in a timely manner.

BOARD OF TRUSTEES OF THE
UNIVERSITY OF ARKANSAS,
ACTING FOR AND ON BEHALF
OF THE UNIVERSITY OF ARKANSAS

By: 
Asst. Director, Research & Sponsored Programs

NORTHWEST ARKANSAS
REGIONAL PLANNING COMMISSION

By: 
Executive Director

EXHIBIT B

FTA's current Master Grant Agreement is considered to be attached hereto, and is made a part hereof, by reference. RT agrees to comply with said Agreement, and with 2014 FTA Assurances and Certifications.

EXHIBIT C

Federal Funding Accountability and Transparency Act (FFATA) Form

Requirements and Purpose of Form

In accordance with the Reporting requirements by the Federal Funding Accountability and Transparency Act (FFATA), including U.S. OMB guidance, it is the policy of Northwest Arkansas Regional Planning Commission (NWARPC) that subrecipients must provide the following information, which will be reported by NWARPC for FFATA compliance purposes:

1. Name of Entity Receiving Award: _____
2. Amount of Award: _____
3. Funding Agency: _____
4. Data Universal Numbering System (DUNS) Number: _____
5. NAICS Code: _____
6. CFDA Program Number: _____
7. Program source: _____
8. Award title descriptive of the purpose of funding action: _____
9. Location of Entity (including congressional district): _____
10. Place of Performance (including congressional district): _____
11. Unique Identifier of the Entity and its Parent: _____
12. Total compensation and names of top five executives, if applicable: \$_____
 - a. Executive name: _____
 - b. Executive name: _____
 - c. Executive name: _____
 - d. Executive name: _____
 - e. Executive name: _____

Subrecipient hereby represents that all of the foregoing information is true and correct.

Submitted by: _____

Signature

Print Name and Title

**Name of Contractor
(if different than signatory)**

Date

Appendix D

**U.S. Department of Labor
September 3, 2014 Certification
FTA Section 5339 Application
Northwest Arkansas Regional Planning Commission (NWARPC)
On Behalf Of:
Razorback Transit (University of Arkansas)
AR-34-0006**

See Attached:



September 3, 2014

Robert C. Patrick, Regional Administrator
Federal Transit Administration, Region VI
819 Taylor Street, Room 8A36
Ft. Worth, Texas 76102

Re: FTA Application
Northwest Arkansas Regional Planning
Commission (NWARPC)
On Behalf Of:
Razorback Transit (University of Arkansas)
Purchase (4) Replacement Low-Floor 40-
Ft. Transit Buses
AR-34-0006

Dear Mr. Patrick:

This is in reply to the request from your office that we review the above captioned application for a grant under Title 49 of the U.S. Code, Chapter 53.

The Department of Labor makes the certification called for under the statute on condition that the attached "*Language for Incorporation into the Contract of Assistance*" is made applicable to Razorback Transit (University of Arkansas). These terms and conditions provide to transportation related employees in the service area of the project protections satisfying the requirements of 49 U.S.C., Section 5333(b). This certification letter shall be incorporated into the contract of assistance between the Grantee and the U.S. Department of Transportation (DOT), by reference.

The Grantee shall incorporate the terms of this certification into a contract with Recipients of funds under the grant, if any, as a precondition to the release of assistance to any Recipient.

Sincerely,

A handwritten signature in cursive script that reads "Karen M. Torre".

Karen M. Torre, Acting Chief
Division of Statutory Programs

Enclosure

cc: Scheryl Portee/FTA
Jeff Hawkins/NWARPC
Cristina Scarlat/NWARPC
Gary K. Smith/Razorback Transit (University of Arkansas)
E. Adam Waddell/Razorback Transit (University of Arkansas)

**LANGUAGE FOR INCORPORATION INTO THE
CONTRACT OF ASSISTANCE**

AR-34-0006

As a precondition to the receipt of assistance, the Northwest Arkansas Regional Planning Commission (NWARPC) shall ensure, that the “Public Body,” Razorback Transit (University of Arkansas), agrees that the following terms and conditions shall apply for the protection of employees in the mass passenger transportation industry in the service area of the project:

1. The project shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees in the mass passenger transportation industry within the service area of the project. The “service area” as used herein, includes the geographic area over which the project is operated and the area whose population is served by the project, including adjacent areas affected by the project;
2. All rights, privileges, and benefits (including pension rights and benefits) of employees (including employees already retired) shall be preserved and continued;
3. The Public Body shall be financially responsible for any deprivation of employment or other worsening of employment position as a result of the project;
4. In the event an employee is terminated or laid off as a result of the project, he shall be granted priority of employment or reemployment to fill any vacant position for which he or she is, or by training or retraining can become, qualified. In the event training or retraining is required by such employment or reemployment, the Public Body shall provide or provide for such training or retraining at no cost to the employee;
5. Any employee who is laid off or otherwise deprived of employment or placed in a worse position with respect to compensation, hours, working conditions, fringe benefits, or rights and privileges pertaining thereto at any time during his or her employment as a result of the project, including any program of efficiencies or

economies directly or indirectly related thereto, shall be entitled to receive any applicable rights, privileges and benefits as specified in the employee protective arrangement, known as C-1, certified by the Secretary of Labor under Section 405(b) of the Rail Passenger Service Act of 1970 on April 16, 1971 (See Appendix C-1, a copy of which is included on the Department's website.).

An employee shall not be regarded as deprived of employment or placed in a worse position with respect to compensation, etc., in case of his or her resignation, death, retirement, dismissal for cause, or failure to work due to disability or discipline. The phrase "as a result of the project" as used herein shall include events occurring in anticipation of, during, and subsequent to the project;

6. In the event any provision of these conditions is held to be invalid or otherwise unenforceable, the Public Body, the employees and/or their representatives may invoke the jurisdiction of the Secretary of Labor to determine substitute fair and equitable employee protective arrangements which shall be incorporated in these conditions;
7. The Public Body agrees that any controversy respecting the project's effects upon employees, the interpretation or application of these conditions and the disposition of any claim arising hereunder may be submitted by any party to the dispute including the employees or their representative for determination by the Secretary of Labor, whose decision shall be final.

In the event of any dispute as to whether or not a particular employee was affected by the project, it shall be the employee's obligation to identify the project and specify the pertinent facts of the Project relied upon. It shall then be the burden of the Public Body to prove that factors other than the project affected the employee. The claiming employee shall prevail if it is established that the project had an effect upon the employee even if other factors may also have affected

the employee (See Hodgson's Affidavit in Civil Action No. 825-71);

8. The Public Body shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the making of the decisions called for in the preceding paragraph;
9. The Public Body will post, in a prominent and accessible place, a notice stating that the Public Body is a recipient of Federal assistance under the Federal Transit Act and has agreed to comply with the provisions of 49 U.S.C., Section 5333(b). The notice shall specify the terms and conditions set forth herein for the protection of employees; and
10. The protective arrangements certified by the Secretary of Labor are intended for the primary and direct benefit of transit employees in the service area of the project. These employees are intended third-party beneficiaries to the employee protective arrangements of the grant contract between the U.S. Department of Transportation and the Grantee/Applicant, and the parties to the contract so signify by executing that contract. Such transit employees are also third-party beneficiaries to the protective arrangements incorporated in any subsequent contract(s) of assistance between the Grantee and any Recipient(s). Employees, or their representative on their behalf, may assert claims with respect to the protective arrangements under this provision. This clause creates no independent cause of action against the United States Government.

As a precondition to the release of assistance to any Recipient, this letter and the terms and conditions of the protective agreements or arrangements referenced above, shall be incorporated into the contract of assistance between the Grantee and/or Applicant and such Recipient, by reference.